



INTELLECTUAL CONCEPTS, L.L.C.

:14th JUDICIAL DISTRICT COURT

VS. NO. 2004-2675 DIV. G

:PARISH OF CALCASIEU

WONDERS OF WATER, L.L.C.,
HERBOLOGICS, LTD., AND
WILLIAMS FOOD GROUP, L.L.C.

: STATE OF LOUISIANA

FILED: 8-17-07

Carol Speer
DEPUTY CLERK OF COURT

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter proceeded to trial on the merits on June 25, 2007.

FACTS

Plaintiffs called as witnesses, Paul David Manos (by deposition), Brian Hymel, Greg Caton and Dr. Holliday Heine. After considering the Exhibits introduced and the testimony of the witnesses, the Court makes the following findings:

1.

In 2002 and 2003, Paul David Manos was a member/manager of Wonders of Water, LLC.

2.

Paul David Manos came to Lake Charles to meet with Greg Caton and was trying to sell Greg Caton a food preservative made by Wonders of Water, LLC, which it designated as RP 20.

3.

U.S. Provisional Patent Application No. 60/243,943 ("the '943 provisional") was filed with the U.S. Patent and Trademark Office ("USPTO") on October 27, 2000, disclosing an invention that was developed into the product RP 20 ("the Invention"). U.S. Utility Patent Application No. 10/055,799 ("the '799 application"), claiming priority from the '943 provisional, was filed October 25, 2001. U.S. Patent No. 6,833,087 ("the '087 patent") was issued on the '799 application on December 21, 2004.

4.

The USPTO issued Patent Number 6,833,087 (the '087 patent), from the '799 application on December 21, 2004. The '087 patent on its face shows Dr. Robert Beck and Paul David Manos as inventors and Wonders of Water, LLC and Intellectual Concepts, LLC as assignees, or owners. Robert Bentley, Jr. is not shown as an owner.

5.

The invention of the '087 patent was first disclosed publicly in the corresponding International Application No. PCT/US01/45615 ("the PCT application"), also filed on October 25, 2001 and entitled 2, 4-HEXADIENOIC ACID AND DERIVATIVES AS CORROSION INHIBITORS. The PCT application was published May 30, 2002, as WO 02/042523. The date on which its contents became part of the public domain.

When Paul David Manos came to Lake Charles to work with Greg Caton on RP 20 improvements, the composition of RP 20 was in the public domain.

Intellectual Concepts, LLC owns the rights to the food and beverage claims of Patent No. 6,833,087 and the rights of Gregory James Caton ("Greg Caton") who improved the patented formula by the addition of the preservative chemicals he had a history of using.

6.

Potassium sorbate (or a 2,4 hexadienoic acid) has been commonly used to preserve foods (see, e.g., U.S. Patent No. 6,500,360, the "Bendiner patent," and patent references cited therein).

7.

Greg Caton was affiliated with and employed by Herbologics, Ltd. in 2003, making a vegetarian product that resembled and tasted like beef jerky.

8.

Herbologics had been using a combination of chemicals consisting of sodium benzoate and sodium propionate for many years in its vegetarian jerky.

9.

Herbologics, acquired some RP 20 from Wonders of Water, LLC to try as a preservative in its vegetarian jerky. After about a month, the RP 20 had degraded, and long string-like growths began to grow in the RP 20.

10.

In an attempt to prevent RP 20 from itself degrading, Herbologics acquired the chemicals to make RP 20, i.e., potassium sorbate and methylulose and, at one of its facilities, began to manufacture RP 20 in small amounts and add to it sodium benzoate and sodium propionate.

11.

Although Paul David Manos was around at the time of the experiments, either late 2002 or 2003, his sole contribution was the formulation of RP 20, which came into the public domain on May 30, 2002, when the PCT application was published as WO 02/042523.

12.

Greg Caton determined that a specific combination of potassium sorbate, methylelulose, sodium benzoate and sodium propionate will not degrade and will stay in solution indefinitely, and for which we now know is still effective for at least three (3) years.

13.

Paul David Manos convinced Greg Caton that they should establish a business to manufacture and sell this new product. The company to be formed was PreservX, Inc.

14.

Greg Caton, Paul David Manos and Robert Bentley, Jr. agreed to form and operate PreservX, Inc. but that agreement never came to fruition, as the corporation was formed, but never capitalized.

15.

Greg Caton engaged Alston & Bird, attorneys in Charlotte, North Carolina to prepare and file a provisional patent application on the product he formulated. This application was filed on February 19, 2003 as U.S. Provisional Application No. 60/448,153 ("the '153 provisional").

16.

At Paul David Manos' request, Greg Caton allowed Paul David Manos to be listed as a co-inventor. Greg Caton was not aware of the rights that go with inventorship at the time of filing of the application.

17.

Paul David Manos, Greg Caton and Robert Bentley, Jr. had a disagreement about PreservX, Inc. and each went their separate ways.

18.

Unknown to Greg Caton, Paul David Manos had Alston & Bird file U.S. Patent Application No. 10/606,946 ("the '946 application"), which claims priority from the '153 provisional, listing Paul David Manos as the sole inventor. The '946 application was filed on June 26, 2003.

19.

Paul David Manos assigned all of his interest in the '153 provisional and the '946 application to Robert Bentley, Sr. on September 2, 2003, and the assignment is recorded in the U.S. Patent and Trademark Office.

20.

Greg Caton, in December 2003, sold the assets of the anticipated preservation business to Hodges Street Properties, LLC, and Intellectual Concepts, LLC.

21.

In an assignment dated December 22, 2003, Greg Caton transferred to Intellectual Concepts, LLC, his interest in the '153 provisional, the invention, and in any future patent applications based on the substance of the '153 provisional. The full utility application claiming priority from the '153 provisional and designating Greg Caton as the inventor was filed on Feb. 19, 2004 as U.S. Application No. 10/782,405 ("the '405 application").

22.

Paul David Manos has acknowledged in his testimony in a deposition taken March 16, 2007 that the idea to add the sodium benzoate and the sodium propionate was Greg Caton's.

23.

The concept of the invention claimed in the '153 provisional, the '946 application, and the '405 application is the addition of lower alkyl carboxylic acid moieties to the product covered by the '087 patent, in order to prevent the patented product from degrading and/or spoiling. The evidence reflects that Greg Caton both conceived the idea of how to improve the RP 20 product, and then developed the method of making the new chemical formulation. There is no evidence that suggests Paul David Manos conceived the idea, or developed the method, of making the new chemical formula described and claimed in the '153 provisional, the '946 application and the '405 application.

24.

The Court has considered the testimony of Greg Caton and Paul David Manos as to what is the claimed invention in the '153 provisional, the '946 application and the '405 application, and the Court finds that Greg Caton is able to describe the invention with particularity whereas Paul David Manos did not describe the claimed invention, and does not appear to know all of its chemical components or how it works.

25.

Greg Caton's testimony is corroborated by the testimony of Paul David Manos in his deposition and the receipts reflecting Greg Caton's long use of sodium benzoate and sodium propionate.

26.

In late fall of 2003, Herbologics began manufacturing the product described in the '405 application and the product began to be sold to Flowers Baking Corporation for a food preservative.

27.

After acquiring the assets of Herbologics, Inc., Global Preservatives, LLC continued to produce the same product, and it has continuously sold the product to Flowers through the trial date of June 25, 2007.

28.

The contribution of Paul David Manos to the claimed invention is to bring the Wonders of Water, LLC patented product to Greg Caton.

29.

Since Paul David Manos neither conceived of the idea to improve RP 20, nor developed the new formula or the process to manufacture the new formula, he can have no rights in any patent to be issued for a chemical composition described in the '153 provisional.

30.

The purported transfer by Paul David Manos to Robert Bentley, Sr. dated September 2, 2003, of his interest in the '153 provisional and the '946 application is ineffective as the Court finds as a matter of fact, Paul David Manos had no rights to ownership, and therefore has no rights to transfer.

31.

Greg Caton transferred his entire right, title and interest in the invention described in the '153 provisional to Intellectual Concepts, LLC in an assignment

executed Dec. 22, 2003 and recorded Feb. 2, 2004. On March 2, 2004, Greg Caton transferred all of his rights to the '405 application to Intellectual Concepts, LLC, said assignment being recorded July 16, 2004. The Court determines that Greg Caton is the person who conceived, formulated and manufactured the chemical formula described in the '153 provisional and the '405 application and that, therefore, Greg Caton has an interest to transfer.

32.

Paul David Manos assigned his interest in the '946 application to Robert Bentley, Sr. by an Assignment dated September 2, 2003 and recorded with the USPTO on October 14, 2003. A duplicate assignment by Paul David Manos to Robert Bentley, Sr. was executed Dec. 12, 2003 and recorded with the USPTO on Dec. 16, 2003. There are currently no other Assignments of the '946 application.

33.

Greg Caton assigned his interest in the '405 application to Intellectual Concepts, LLC by an Assignment dated March 2, 2004 and recorded with the USPTO on July 16, 2004. There are currently no other Assignments the '405 application.

34.

The conclusion of this analysis is that Intellectual Concepts, LLC is the rightful owner of any patent issued on a formula described, alternatively, as "lower alkyl carboxylic acid moieties as organoleptic stabilizers and preservatives of food and beverages and for preventing oxidative corrosion of metals" or "lower alkyl carboxylic acid moieties for preventing oxidative corrosion of metals and organoleptic stabilizer for food and beverages ", whether such patent be issued as a result of the '946 application or the '405 application. A judgment to this effect will be signed when presented.

CONCLUSIONS OF LAW

1.

At the heart of any ownership analysis lies the question of who first invented the subject matter at issue, because the patent right initially vests in the inventor who may then, barring any restrictions to the contrary, transfer that right to another.....*Beech Aircraft Corporation v. Edo Corporation*, 990 F.2d 1237, 26 U.S.P.Q. 2d 1572 (Fed.Cir.1993).

2.

Determining "inventorship" is nothing more than determining who conceived and reduced to practice the subject matter at issue, whether that subject matter is recited in a claim in an application or in a count in an interference. Conception, and consequently inventorship, are questions of law that are reviewed *de novo*. *Environ Products, Inc. v. Furon Company, Inc.*, 1998 WL 221033, 47 U.S.P.Q. 2d 1040 (Not Reported in F. Supp.) citing. *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1376, 231 U.S.P.Q. 81, 87 (Fed.Cir.1986); see also *In re Caveney*, 761, F.2d 671, 674, 226 U.S.P.Q. 1, 3 (Fed.Cir.1985).

3.

There are two types of inventorship contests, an originality contest and a priority contest. In an originality case, the issue is not who is the first or prior inventor, but who made the invention. *Applegate v. Scherer*, 332 F.2d 571, 141 U.S.P.Q. 796 (CCPA 1964).

4.

Conception exists when a definite and permanent idea of an operative invention, including every feature of the subject matter sought to be patented, is known. *Colemand v. Dines*, 754 F.2d 353, 359, 224 U.S.P.Q. 857, 862 (Fed.Cir.1985). Conception is complete when one of ordinary skill in the art could construct the apparatus without unduly extensive research or experimentation. See

Summers v. Vogel, 332 F.2d 810, 816, 141 U.S.P.Q. 816, 820 (CCPA 1964); *In re Tansel*, 253 F.2d 241, 243, 117 U.S.P.Q. 188, 189 (CCPA 1958).

5.

Conception is defined as the point in time when the inventor formed in his or her mind “a definite and permanent idea of the complete operative invention, as it is hereafter to be applied in practice,” which idea is “so clearly defined in the inventor’s mind that only ordinary skill would be necessary to reduce the invention to practice, without extensive research or experimentation.” *Burroughs Wellcome Co. v. Barr Laboratories, Inc.*, 40 F.3d 1223, 1228, 32 U.S.P.Q.2d (BNA) 1915, 1919 (Fed.Cir.1994).

6.

Conception defines the legally operative moment of invention under § 102(g). It is the “formation in the mind of the inventor, of a definite and permanent idea of the complete and operative invention, as it is hereafter to be applied in practice.” *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367 at 1376 (C.A.Fed. 1986). An idea is sufficiently definite and permanent for conception if it provides one skilled in the art with enough guidance to “understand the invention,” that is, “when the inventor has a specific, settled idea, a particular solution to the problem at hand, not just a general goal or research plan he hopes to pursue.” *Burroughs Wellcome Co. v. Barr Labs., Inc.*, 40 F.3d 1223, 1228 (Fed.Cir.1994). The inventor must be able to “describe his invention with particularity.” *Id.* This requires both (1) the idea of the invention’s structure and (2) possession of an operative method of making it. *Amgen, Inc. v. Chugai Pharm. Co.*, 927 F.2d 1200, 1206 (Fed.Cir.1991). Thus, with regard to a claimed chemical compound, conception requires that the inventor “be able to define” the compound “so as to distinguish it from other materials, and to describe how to obtain it.” *Id.*

Invitrogen Corp. v. Clontech Laboratories, Inc., 429 F.3d 1052, 1063, 77 U.S.P.Q.2d (BNA) 1161, 1168 (Fed.Cir.2005).

7.

Conception “turns on the inventor’s ability to describe the invention with particularity, and the idea must be sufficiently formed so that only ordinary skill would be necessary to reduce the invention to practice, without extensive research or experimentation.” *Slip Track Systems, Inc. v. Metal-Lite, Inc.*, 304 F.3d 1256, 1263, 64 U.S.P.Q.2d (BNA) 1423, 1427 (Fed.Cir.2002).

8.

Conception is separate from, and generally does not require, a reduction to practice.

Pfaff v. Wells Electronics, Inc., 525 U.S. 55, 60, 119 S. Ct. 304, 308, 142 L. Ed. 2d 261, 48 U.S.P.Q.2d (BNA) 1641, 1644 (1998).

9.

But in some instances, particularly in the unpredictable arts, such as chemistry or biotechnical gene inventions, conception cannot be found until there is a simultaneous reduction to practice. *Amgen, Inc. v. Chugai Pharmaceutical Co., Ltd.*, 927 F.2d 1200, 1206, 18 U.S.P.Q.2d (BNA) 1016, 1021 (Fed.Cir.1991).

10.

Patent issuance creates a presumption that the named inventors are the true and only inventors. See *Hess v. Advanced Cardiovascular Sys., Inc.*, 106 F.3d 976, 980, 41 U.S.P.Q.2d 1782, 1785-86 (Fed.Cir.), cert. denied, 520 U.S. 1277, 117 S.Ct. 2459, 138 L.Ed.2d 216 (1997).

11.

A patented invention may be the work of two or more joint inventors. See 35 U.S.C. § 116 (1994). Because “[c]onception is the touchstone of inventorship,” each joint inventor must generally contribute to the conception of the invention. *Burroughs Wellcome Co. v. Barr Lab.*, 40 F.3d 1223, 1227-28, 32 U.S.P.Q.2d 1915, 1919 (Fed.Cir.1994). “Conception is the ‘formation in the mind of the inventor, of a definite and permanent idea of the complete and operative invention, as it is hereafter to be applied in practice.’” *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*,

802 F.2d 1367, 1376, 231 U.S.P.Q. 81, 87 (Fd.Cir.1986) (quoting 1 *Robinson on Patents* 532 (1890)). An idea is sufficiently “definite and permanent” when “only ordinary skill would be necessary to reduce the invention to practice, without extensive research or experimentation.” *Burroughs Wellcome*, 40 F.3d at 1228. (emphasis supplied)

The conceived invention must include every feature of the subject matter claimed in the patent. See *Sewall*, 21 F.3d at 415. Nevertheless, for the conception of a joint invention, each of the joint inventors need not “make the same type or amount of contribution” to the invention. 35 U.S.C. § 116. Rather, each needs to perform only a part of the task which produces the invention. On the other hand, one does not qualify as a joint inventor by merely assisting the actual inventor after conception of the claimed invention. See *Sewall*, 21 F.3d at 416-7; *Shatterproof Glass Corp. v. Libbey-Owens Ford Co.*, 758 F.2d 613, 624, 225 U.S.P.Q. 634, 641 (Fed.Cir.1985) (“An inventor ‘may use the services, ideas and aid of others in the process of perfecting his invention without losing his right to a patent.’” (quoting *Hobbs v. U.S. Atomic Energy Comm’n.*, 451 F.2d 849, 864, 171 U.S.P.Q. 713, 724 (5th Cir.1971))). One who simply provides the inventor with well-known principles or explains the state of the art without ever having “a firm and definite idea” of the claimed combination as a whole does not qualify as a joint inventor. See *Hess*, 106 F.3d at 981 (citing *O’Reilly v. Morse*, 56 U.S. (15 How.) 62, 111, 14 L.Ed. 601 (1853)). Moreover, depending on the scope of a patent’s claims, one of ordinary skill in the art who simply reduced the inventor’s idea to practice is not necessarily a joint inventor, even if the specification discloses that embodiment to satisfy the best mode requirement. See *Sewall*, 21 F.3d at 416.

12.

Furthermore, a co-inventor need not make a contribution to every claim of a patent. See 35 U.S.C. § 116. A contribution to one claim is enough. See *SmithKline Diagnostics, Inc. v. Helena Lab. Corp.*, 859 F.2d 878, 888, 8 U.S.P.Q.2d 1468, 1476 (Fed.Cir.1988). Thus, the critical question for joint conception is who conceived, as that term is used in the patent law, the subject matter of the claims at issue.

35 U.S.C. § 256 provides that a co-inventor omitted from an issued patent may be added to the patent by a court “before which such matter is called in question.” To show co-inventorship, however, the alleged co-inventor or co-inventors must prove their contribution to the conception of the claims by clear and convincing evidence. See *Hess*, 106 F.3d at 980. However, “an inventor’s testimony respecting the facts surrounding a claim of derivation of priority of invention cannot, standing alone, rise to the level of clear and convincing proof.” *Price v. Symsek*, 988 F.2d 1187, 1194, 26 U.S.P.Q.2d 1031, 1036 (Fed.Cir.1993). The rule is the same for an alleged co-inventor’s testimony. See *Hess*, 106 F.3d at 980. Thus, an alleged co-inventor must supply evidence to corroborate his testimony. See *Price*, 988 F.2d at 1194. Whether the inventor’s testimony has been sufficiently corroborated is evaluated under a “rule of reason” analysis. *Id.* at 1195. Under this analysis, “[a]n evaluation of *all* pertinent evidence must be made so that a sound determination of the credibility of the [alleged] inventor’s story may be reached.” *Id.* Corroborating evidence may take many forms. Often contemporaneous documents prepared by a putative inventor serve to corroborate an inventor’s testimony. See *id.* at 1195-96. Circumstantial evidence about the inventive process may also corroborate. See *Knorr v. Pearson*, 671 F.2d 1368, 1373, 213 U.S.P.Q. 196, 200 (CCPA 1982) (“[S]ufficient circumstantial evidence of an independent nature can satisfy the corroboration rule.”). Additionally, oral testimony of someone other than the alleged inventor may corroborate. See *Price*, 988 F.2d at 1195-96.

The mere exercise of ordinary skill in the art does not amount to conception. Thus, if an alleged joint inventor only contributed information that was already known by one of skill in the art, the alleged joint inventor has not contributed to the

conception and does not qualify as a joint inventor *Caterpillar, Inc. v. Sturman Industries, Inc.*, 387 F.3d 1358, 1377-78, 73 U.S.P.Q.2d 1609 (Fed.Cir.2004).

15.

A contribution of information in the prior art cannot give rise to joint inventorship because it is not a contribution to conception. *Eli Lilly and Co. v. Aradigm Corp.*, 376 F.3d 1352, 1359, 71 U.S.P.Q.2d 1787 (Fed.Cir.2004).

16.

When the contents of the '799 application was published on May 30, 2002, as WO 02/042523, it became part of the "prior art," and the formulation of RP 20 became public domain information.

17.

This court cannot determine inventorship. 35 U.S.C. §256 gives that task to a Federal District Court after a patent is issued. However, ownership, being a State issue, allows a State Court to look at elements of inventorship when no patent has yet been issued, to determine a starting point for ownership.

18.

Declaratory relief is appropriate to determine the status of rights of the parties. See *Schmill v. St. Charles Parish*, App. 5 Cir.1997, 96-894 (La.App. 5 Cir. 3/1/97), 692 So.2d 1161; *Parochial Employee's Retirement System of Louisiana v. Caddo Parish Com'n*, App. 1 Cir.1996, 95 0243 (La.App. 1 Cir.3/15/96), 676 So.2d 105, writ denied, 96-0955 (La.5/31/96), 673 So.2d 1031; *Gulotta v. Cutshaw*, App. 1 Cir.1972, 258 So.2d 555, writ denied, 261 La. 536, 260 So.2d 320, reversed 283 So.2d 482.

CONCLUSION

Therefore, for the reasons stated herein, Plaintiff's Petition for Declaratory Judgment is hereby GRANTED. Written judgment to be signed upon presentation.

It is so ordered, this, the 17th day of August 2007, at Lake Charles, Louisiana.

G. Michael Canaday

G.MICHAEL CANADAY
14th JUDICIAL DISTRICT COURT

A TRUE COPY
Lake Charles, Louisiana
8-17-07

Carol Spear
Deputy Clerk of Court
Calcasieu Parish, Louisiana

INTELLECTUAL CONCEPTS, L.L.C. and : 14TH JUDICIAL DISTRICT
GLOBAL PRESERVATIVES, LLC : COURT

VS. NO. 2004-2675 DIV. "G" : PARISH OF CALCASIEU

WONDERS OF WATER, L.L.C. :
HERBOLOGICS, LTD., AND : STATE OF LOUISIANA
WILLIAMS FOOD GROUP, L.L.C.

FILED: AUG 28 2007

Kelly McMillan

JUDGMENT

THIS MATTER came for Hearing pursuant to regular assignment on August 17, 2007. Present: INTELLECTUAL CONCEPTS, LLC and GLOBAL PRESERVATIVES, LLC and their attorney, KENNETH MICHAEL WRIGHT; ROBERT BENTLEY, SR., did not appear personally, but did appear through counsel, GREG UPTON; and WONDERS OF WATER, LLC and JOSEPH WINKIEL and their counsel, JOSEPH A. DELAFIELD. The Court after considering the pleadings, the evidence and the argument by counsel, and for the reasons filed on August 17, 2007,.

IT IS ORDERED that INTELLECTUAL CONCEPTS, LLC is the owner of any patent issued on a formula described alternatively, as "lower alkyl carboxylic acid moieties as organoleptic stabilizers and preservatives of food and beverages and for preventing oxidative corrosion of metals" or "lower alkyl carboxylic acid moieties for preventing oxidative corrosion of metals and organoleptic stabilizer for food and beverages", whether such patent be issued as a result of U.S. Patent Application No. 10/606,946 or U.S. Patent Application No. 10/782,405.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Motion for Involuntary Dismissal orally made by ROBERT BENTLEY, SR. is DENIED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all costs of court are to be assessed pursuant to a separate hearing on costs, to be set when requested by the parties hereto.

BY: RECEIVED *M*
SEP 04 2007
WEINGARTEN, SCHURGIN,
GAGNEBIN & LEBOVICI LLP

JUDGMENT RENDERED, in Open Court on August 17, 2007.

JUDGMENT SIGNED in Chambers this 27th day of August, 2007.

G. Michael Canada
G. MICHAEL CANADAY
DISTRICT JUDGE

A TRUE COPY
Lake Charles, Louisiana

Kelly McNeill
Deputy Clerk of Court
Calcasieu Parish, Louisiana
AUG 28 2007

FOURTEENTH JUDICIAL DISTRICT COURT

PARISH OF CALCASIEU

STATE OF LOUISIANA

INTELLECTUAL CONCEPTS,
L.L.C.

VERSUS

CIVIL SUIT NUMBER 2004-2675-G

WONDERS OF WATER, L.L.C.,
HERBOLOGICS, LTD., AND
WILLIAMS FOOD GROUP, L.L.C.

DEPOSITION OF PAUL DAVID MANOS, taken at
the instance of and on behalf of plaintiff
in the above captioned matter; March 16,
2007, at the Law Offices Gold, Weems,
Bruser, Sues & Rundell in Alexandria,
Louisiana.

APPEARANCES

KENNETH MICHAEL WRIGHT, L.L.C.
BY MR. KENNETH MICHAEL WRIGHT
LAKE CHARLES, LOUISIANA ATTORNEY FOR PLAINTIFFS,
INTELLECTUAL CONCEPTS,
L.L.C. AND GLOBAL
PRESERVATIVES, L.L.C.

BY MR. JOSEPH A. DELAFIELD
ATTORNEY AT LAW
LAKE CHARLES, LOUISIANA ATTORNEY FOR DEFENDANT,
WONDERS OF WATER, L.L.C.

GOLD, WEEMS, BRUSER, SUES & RUNDELL
BY MR. GREGORY B. UPTON
BY MR. STEPHEN A. LAFLEUR
ALEXANDRIA, LOUISIANA ATTORNEYS FOR DEFENDANT,
PAUL DAVID MANOS

ALSO PRESENT:
MR. WILLIAM WOODARD
MR. GREG CATON, IN PROPER PERSON

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

S T I P U L A T I O N

It is stipulated by and between counsel for plaintiff and counsel for the defendant that the deposition of PAUL DAVID MANOS shall be taken in the action at the request of plaintiff before Sheila L. Walker, Certified Court Reporter for the State of Louisiana, March 16, 2007, at the Law Offices Gold, Weems, Bruser, Sues & Rundell in Alexandria, Louisiana.

The parties hereto waive all formalities in connection with the taking of said deposition except the swearing of the witness and the reduction of questions and answers to writing.

It shall not be necessary for counsel to enter objections except as to the form of the question and the responsiveness of the answer at the time of the taking of said deposition, all parties reserving the right to make such objections at the time said deposition or any part thereof may be offered in evidence with the same right as if the testimony had been taken and given in open court.

PAUL DAVID MANOS, after being duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WRIGHT:

Q: Would you state your full name for the record, please?

1 A: Paul David Manos.

2 Q: And what is your current address, Mr. Manos?

3 A: 5 Quail Lake Road East, Pinehurst, North Carolina,
4 28374.

5 Q: We had previously been advised that you were ... might
6 be living in Nevada, is that not correct?

7 A: We have another little place over there, but my ...
8 that's my permanent one.

9 Q: That's ... is that a residence that you own, or is
10 that a residence that someone that you're related to
11 owns?

12 A: No.

13 Q: The residence in Pinehurst?

14 A: My wife.

15 Q: Owns the residence in Pinehurst?

16 A: Yes.

17 Q: And that ... you're using that as your permanent
18 address?

19 A: That's correct.

20 Q: Okay. And you are married?

21 A: Yes.

22 Q: And what is the name of ... the full name of your
23 wife?

24 A: Brenda Mae Zenick.

25 Q: Can you spell the last name for us, please?

1 A: Z-e-n-i-c-k.
2 Q: And have you been married prior to your marriage to
3 this lady?
4 A: Yes.
5 Q: Who were you married to previously?
6 A: Ann Pollack.
7 Q: Can you spell that name for us, please?
8 A: It's P-o-l-l-a-c-k.
9 Q: And were you divorced from this woman?
10 A: Yes.
11 Q: And where was that ... where did that divorce take
12 place?
13 A: Palm Beach, Florida.
14 Q: Okay. Approximately what year?
15 A: '8-- 198-- it started '85, I believe.
16 Q: Okay. And how long have you been residing at your
17 current address?
18 A: I've been over there since 1993.
19 Q: Okay. And where did you reside prior to residing in
20 Pinehurst?
21 A: Naples, Florida.
22 Q: And how long did you reside in Naples, Florida?
23 A: Two years.
24 Q: And did you own a home there, or did you rent a place,
25 or what?

1 A: I lived with Brenda.

2 Q: That was your previous wife?

3 A: No.

4 Q: No. Your current wife?

5 A: Yes.

6 Q: Okay. Did she own some property there, or did y'all

7 rent?

8 A: She was an owner ... a part owner.

9 Q: Okay. And do you recall what the address was in

10 Naples?

11 A: No. I can't recall.

12 Q: And where did you live prior to living in Naples?

13 A: In like Fort Lauderdale, Florida.

14 Q: And approximately how long did you live in Fort

15 Lauderdale?

16 A: As far as that, it would be the East Coast side, and

17 probably from '82 or '83 until '90.

18 Q: Okay. And where did you live prior to living in Fort

19 Lauderdale?

20 A: Michigan.

21 Q: And whereabouts in Michigan?

22 A: Farmington Hills, Nowi, Michigan.

23 Q: Okay. And how long do you recall living there?

24 A: I was there probably '76 to '82.

25 Q: Okay. And do you recall where you lived prior to '76?

1 A: 1972, I lived in New Mexico, '73 or '74 ... I don't
2 recall exactly, Northern Michigan, and then I lived in
3 ... and then after that, I lived in Farmington or East
4 Lansing.

5 Q: Okay. When you lived in New Mexico, what city were
6 you a resident of?

7 A: I was living in Albuquerque.

8 Q: Okay. What's your birthdate, when were you born?

9 A: 9/25/53.

10 Q: And where were you born?

11 A: Detroit, Michigan.

12 Q: And what are the names of your parents?

13 A: Paul Manos and June Mayfield Manos.

14 Q: Okay. And do you currently possess a driver's
15 license?

16 A: Yes.

17 Q: From what state?

18 A: Michigan.

19 Q: And do you know what the driver's license number is?

20 A: Yes.

21 Q: Could you tell us, please?

22 A: M520676135741.

23 Q: Now, you haven't lived in Michigan in a good 20 years
24 from what you just told me. Why is it that you still
25 possess a Michigan driver's license?

1 A: I do communicate back and forth from Michigan
2 periodically within every so often to see my family,
3 and within every six months, I'm up in there.

4 Q: What do you consider your state of residence for tax
5 purposes, is it North Carolina or Michigan?

6 A: Right now, North Carolina.

7 Q: Are you registered to vote in any state?

8 A: No, I am not.

9 Q: You have a Michigan's driver's license, and you have
10 a North Carolina residence address. Do you belong to
11 a church in either Michigan, North Carolina or any
12 other?

13 A: Not at the present time.

14 Q: I'm pretty sure that we have that information, but
15 just for clarity and make sure there's no mistakes,
16 would you tell us on the record what your Social
17 Security number is, please?

18 A: 330-50-0489.

19 Q: Okay. And is that the only Social Security number
20 card that you've ever had?

21 A: Yes.

22 Q: Okay. Tell me a little bit about your education? I
23 assume you went to high school where you grew up with
24 your parents?

25 A: Yes.

1 Q: And when did you graduate and from what school?

2 A: I graduated in 1972 from Farmington Harris.

3 Q: And what did you do about education after high school?

4 A: I attended the University of New Mexico.

5 Q: And when did you enroll in the University of New

6 Mexico?

7 A: 1972.

8 Q: And how long did you attend the University of New

9 Mexico?

10 A: For one year.

11 Q: And what were you studying while you were in the

12 University of New Mexico?

13 A: Just general bus-- just general studies.

14 Q: Okay. And after one year at the University of New

15 Mexico, did you attend any other colleges or

16 universities?

17 A: I attended Northern Michigan.

18 Q: When did you go to the University at ... what is the

19 name of that school, is it Northern ...

20 A: Northern Michigan University.

21 Q: Okay. And when did you attend Northern Michigan?

22 A: 1973, I believe.

23 Q: Okay. So you went there one year also?

24 A: Yes.

25 Q: Okay. And how long ... and what were you studying,

1 what was your curriculum while you were there ...

2 A: Just, just general studies.

3 Q: Okay. So you ... make sure I understand, you went one

4 year of college at New Mexico and one year of college

5 at Northern Michigan, is that correct?

6 A: That's correct.

7 Q: Okay. Did you attend college at any other

8 particular...

9 A: Yes.

10 Q: Okay. Where else did you go?

11 A: I attended Eastern Michigan University.

12 Q: Where is that located?

13 A: Ypsilanti, Michigan.

14 Q: And how long did you go there?

15 A: I went there for 197-- end of '76 and '77, I recall.

16 Q: Okay. And do you recall what you were studying when

17 you were there?

18 A: Just general studies again.

19 Q: Okay. Did you go to college only one year there?

20 A: Yes.

21 Q: And did you go to college somewhere else after that?

22 A: No. That was it.

23 Q: Do you have a ... I assume you have a diploma from

24 high school, correct?

25 A: This is correct.

1 Q: Do you have any degrees or other type of educational
2 certificates or certification that you have gotten
3 after high school?

4 A: No.

5 Q: Okay. Were you in the military?

6 A: No.

7 Q: So you started college in about '72, you went again in
8 '73 and again in '74, I believe is what you were
9 telling me, so sometime in '75 you would have ceased
10 going to college, is that correct?

11 A: This is correct.

12 Q: What did you do at that time?

13 A: I assisted my father.

14 Q: And assisted your father in what?

15 A: Working at Perfection Industries.

16 Q: And please explain to me what that is?

17 A: It is a precision tool engaged company.

18 Q: Okay. And when you say "a precision tool engaged
19 company," does it manufacture equipment using the
20 manufacturing process, what does it do ... what
21 exactly does it do ...

22 A: Service oriented company.

23 Q: All right. And who is it servicing?

24 A: The aerospace, military, automotive, et cetera.

25 Q: Okay. And how long did you work doing that with your

1 father?

2 A: I assisted him probably from ... I forget, out of
3 Northern Michigan, '74 ... about '75-'76, right in
4 there.

5 Q: Okay. And what were you doing while you were there,
6 what was your job?

7 A: Basically I helped with some sales, and I learned some
8 of the machinery, and so I worked on some of the
9 machinery.

10 Q: Okay. And is that a business that your father owned,
11 or worked at, or what?

12 A: He owned.

13 Q: And what is the name of the company ... the business
14 again?

15 A: It's Perfection Industries.

16 Q: Okay. And to your knowledge, is that a Michigan
17 corporation?

18 A: I believe so.

19 Q: Is it still in existence?

20 A: Yes.

21 Q: And does he still own it?

22 A: No.

23 Q: Okay. So you worked two years as ... I'm just
24 paraphrasing, so if I don't say it correctly, don't
25 hesitate to ask me, for two years basically helping

1 your father in sales and a little bit of the technical
2 stuff in his ... learning some of the technical
3 aspects of his machine business, is that correct?
4 A: This is exactly correct.
5 Q: Okay. And this might be a good time for me to say
6 this. I'm not trying to trick you, so if I ask you a
7 question, and you don't understand it, please don't
8 hesitate to stop me and say, I don't understand the
9 question, and I'll be glad to try to rephrase it to a
10 way that you understand. Can we agree that that's ...
11 we can do that?
12 A: I understand.
13 Q: And by the same token, if I ask you a question, and
14 you respond to it, can you also agree that when you do
15 that, you're telling me, I think I understand what
16 you're asking me, and I'm giving you my best answer,
17 is that fair?
18 A: That's fair.
19 Q: Okay. Now, so about '76, you quit working for your
20 father, roughly in that time frame, is that correct?
21 A: That's correct.
22 Q: And you were in ... Farmingham is kind of Detroit's
23 suburb, is ...
24 A: It's a suburb of Detroit.
25 Q: Okay. So you were living in the general Detroit metro

1 area up until about `76, and in `76, where did you
2 move, and where did you go to work?

3 A: I got a place ... oh, I was living with a friend of
4 mine's girlfriend in Ypsilanti and commuted back and
5 forth.

6 Q: Okay. And how long did you do that? Were you
7 unemployed for awhile, is that what you're saying?

8 A: That's correct.

9 Q: Okay. And how long was that?

10 A: About a year.

11 Q: Okay. So that gets us to `77, and we're getting close
12 to heading towards Florida apparently?

13 A: That's correct.

14 Q: When did ... what did you do after `77?

15 A: `78, I went back working with my father.

16 Q: Okay.

17 A: And I worked with him from about `78 to approximately
18 `82 ... `81-`82.

19 Q: Okay. And from that point in time, is that when you
20 moved to Florida?

21 A: This is correct.

22 Q: Okay. And from when you were telling me where you
23 lived earlier, my recollection is about that time, you
24 moved to the Fort Lauderdale, is that ...

25 A: It was ... at that time, I moved to Deerfield Beach

1 area.

2 Q: Okay.

3 A: Just ... it's just like ... just north of Fort

4 Lauderdale.

5 Q: Okay. And so that's ... and so you went from your

6 father's to Deerfield Beach, Florida?

7 A: Correct.

8 Q: Somewhere around `8-- early `80's?

9 A: I'd say `81, in that area ...

10 Q: Okay. And when you were stay-- when you were back

11 with your father, you were working in his business

12 again, is that correct ...

13 A: Right.

14 Q: ... the machine tool business?

15 A: Yes.

16 Q: Okay. So you left the machine tool business, and you

17 left the Detroit metro area, and you moved to

18 Deerfield Beach, Florida?

19 A: Correct.

20 Q: All right. Were you married by that time?

21 A: No, not yet.

22 Q: And so what did ... what kind of employment did you

23 have when you were living in Deerfield Beach?

24 A: At that time, I was solicited by a company down there

25 called ... I believe it was called Carmond Industries.

1 That's the first one.

2 Q: Is it ... can you spell that, is it ...

3 A: C-a-r-m-o-n-d.

4 Q: Okay. And do you know what they did?

5 A: They were going into the manufacturing of trolley cars

6 for the fast food industry.

7 Q: And was that going to be in Deerfield Beach?

8 A: That was going to be in the Fort Lauderdale or Fort

9 ... just Florida area.

10 Q: Okay. Somewhere in Broward County?

11 A: Yeah. It's in Broward County.

12 Q: Okay. And did you go to work for them?

13 A: I helped them in the beginning to raise capital.

14 Q: Okay. And how did you help them to raise capital?

15 A: I had some friends and family put some money into the

16 business.

17 Q: Okay. And did this business actually get started?

18 A: Yes, sir.

19 Q: Is it still in existence?

20 A: No, sir.

21 Q: Okay. And to the best of your knowledge, it's spelled

22 C-a-r-m-o-n-d Industries?

23 A: Carmond Industries, and it was a, it was a combination

24 of Carol and Raymond, created Carmond. I guess that's

25 how it started.

1 Q: Okay. And Carol and Raymond who, do you remember
2 their names?

3 A: Believe it or not, I do. Luckband, L-u-c-k-b-a-n-d.

4 Q: Do you know if they're still in Broward County?

5 A: I have no clue.

6 Q: Okay. So they contacted you, and I assume because
7 they knew of your father's business, and ... did it
8 have anything to do with the tool ... Precision tool
9 business?

10 A: No, sir.

11 Q: Okay. Well, how is it that they came to contact you
12 about investing in a trolley manufacturing facility?

13 A: You know, it's hard for me to recall exactly how I ran
14 into them, but I think I ran into them when I was
15 helping a young man in front of a pizzeria selling hot
16 dogs. I bought him a hot dog stand. And I think one
17 of the guys bought a hot dog, and we were talking or
18 somebody said something about ... I guess it was hot
19 dog related, and that's when I recall meeting Raymond
20 or Walter, and we formed a relationship, and it grew
21 from there.

22 Q: Okay. So were you ever actually employed by Carmond
23 Industries?

24 A: Not really.

25 Q: Okay. So you didn't receive any paychecks or anything

1 from Carmond Industries?

2 A: No, not at that time, not at the very beginning, no.

3 Q: Okay. Well, how about ever?

4 A: Not from Carmond, no.

5 Q: Okay. So you were going to help them start this

6 business sometime in the early '80's, and that was to

7 be located somewhere in Broward County, and I guess

8 they raised enough money to open some type of

9 facility?

10 A: Yes. They had a manufacturing facility in the Broward

11 area.

12 Q: Okay. And how long were you affiliated with this

13 business?

14 A: '82 probably to '84-'85.

15 Q: Now, at some point in time, I assume they started ...

16 you started being paid? You had to have some method

17 of support.

18 A: That was from my father.

19 Q: Your father was supporting you?

20 A: Yes, sir.

21 Q: Okay. And at some point in time in here also, you ...

22 was it when you were involved in this you got married

23 the first time?

24 A: Yes, sir.

25 Q: Okay. And do you recall when that was?

1 A: Fortunately, '82.

2 Q: Okay. And you were married in the Fort Lauderdale-

3 Broward County area?

4 A: No. We were married in Michigan.

5 Q: Okay. And I know you told me your first wife's full

6 name again, but was she from Michigan?

7 A: No, she wasn't.

8 Q: Okay. Why is it y'all were married in Michigan, just

9 your family?

10 A: My family was there.

11 Q: Okay. And her full name again was?

12 A: It's Margaret Ann Pollack.

13 Q: Okay. Do you stay in contact with her?

14 A: No.

15 Q: Do you know where she lives?

16 A: No.

17 Q: Okay.

18 A: I don't. She moves more like ... she moves like a

19 gypsy.

20 Q: Well, I won't ask you if you want to know. So you and

21 she were married in '82, and you continued working

22 with Carmond Industries until about '85 ... '84-'85...

23 A: Carmond Industries changed.

24 Q: Okay. What did it change to?

25 A: No. Carmond Industries didn't change. Here's how

1 they raised the capital, and I just have to go with
2 what I recall, because it's a long time ago. Carmond
3 stayed private manufacturing these trolley cars. They
4 formed a company called Trolley Chef ...

5 Q: Uh-huh.

6 A: ... and Trolley Chef must have been formed maybe in
7 `82 or 3. I think Carmond was before it, but I ...
8 you know, Carmond had been formed in `80. I can't
9 remember. But `82 or `83, Trolley Chef became a
10 public company and raised I don't know how much money,
11 a half a million or something.

12 Q: Are they still in existence?

13 A: No. Some of their trolley cars are.

14 Q: Okay. So this gets up to about `85 roughly, is that
15 correct? You were ...

16 A: Yes, right in there, `84-`85 ...

17 Q: Okay. And so at some point in that time frame, you
18 changed your residence, and you moved?

19 A: No. I was living in Deerfield Beach.

20 Q: Okay. And so what did you do after Carmond Industries
21 and the trolley cars?

22 A: Well, `85-`86, I still was working with them, and then
23 my attorney friend got me involved with a bar
24 business, and it was kind of interrelated with Trolley
25 Chef at the time ...

1 Q: Let me ...

2 A: ... but don't ask how that happened. It just ...

3 Q: Let me stop you for just a second. Can you spell the

4 ... I don't ... didn't know what the last word

5 attached to Trolley is. Could you spell that for both

6 me and the court reporter?

7 A: Chef, C-h-e-f.

8 Q: Okay ...

9 BY COURT REPORTER: Okay. Thank you.

10 Q: All right. So you were still involved in that, and

11 some attorney in the Broward County area?

12 A: Yes. Did a deal with Ray and them and Trolley Chef

13 where they owned part of a bar or they owned a bar in

14 Lauderdale..

15 Q: Okay. And so you went to work at the bar?

16 A: Well, I sort of kept an overview on it, yes, sir.

17 Q: Okay. That's another one of those things that you

18 weren't actually employed by?

19 A: No, sir.

20 Q: Okay. And what bar was that?

21 A: It was called the Press Box Lounge.

22 Q: And do you recall where it's at?

23 A: Fort Lauderdale.

24 Q: Whereabouts?

25 A: 26th Street and just probably west of Federal Highway

1 maybe about three or four miles. It was in a bowling
2 alley area, Manic Bowl ...

3 Q: Okay. And 26th and what, do you recall?

4 A: No.

5 Q: So it would be Southwest 26th or Northwest?

6 A: I'm not sure.

7 Q: Okay.

8 A: That was a long time ago.

9 Q: And ...

10 A: It's close, but I don't know if it's 26th though.

11 Q: Okay. So do you know if it's open or not?

12 A: No, sir.

13 Q: Okay. So how long were you affiliated with that?

14 A: That was probably with ... you know, it was in the
15 Trolley Chef area and then probably maybe six months
16 later, then Merle took it back ... Merle Bookstein
17 took it back.

18 BY COURT REPORTER: Who?

19 A: Merle Bookstein, because they couldn't afford to pay
20 him anymore, so I guess Merle might have taken it
21 back.

22 Q: All right. So ... and you were still being
23 represented ... being supported by your father?

24 A: Yes.

25 Q: You and your wife?

1 A: Yes.

2 Q: All right. Now, you said you ... at some point in
3 time, you moved to Naples?

4 A: Correct.

5 Q: And was that the next event that happened after the
6 Trolley Chef and the bar?

7 A: Back then, the Trolley Chef became basically a shell.
8 It didn't have anything but shareholders and a public
9 entity, and a gentleman came in to try to purchase the
10 shell. That's what I remember. Because my dad had
11 money involved, and some other people had money
12 involved. So I guess they tried to come in and
13 purchase the shell. I can't ... some Leisurely. They
14 wanted to go public and wanted to purchase the shell.

15 Q: And so were you involved in that transaction?

16 A: Yes, I was.

17 Q: And what was your involvement in that transaction?

18 A: Making ... trying to get the shareholders to approve
19 them to take over the shell, at least maybe give them
20 a chance to earn some ... you know, have another shot
21 at making money.

22 Q: Okay. And how long did this ... how long was that
23 involvement going on?

24 A: I believe it was in '87 ... '86-'87. I can't recall
25 exactly.

1 Q: Okay. And then what did you do ... what happened
2 after that?

3 A: After that ... '87 to '88, I tried to sell the
4 locations ... these trolley car locations to a Bill
5 Lipps, who ... was, who purchased some of the
6 locations so some of the investors could get some of
7 their money back.

8 Q: Okay. And then after helping sell some of the Trolley
9 Chef locations, what did you do then?

10 A: Always during this periodic time that I was working
11 with Trolley Chef, I just recall, to then, I was ...
12 kind of been guided by an older gentleman named Morris
13 Gotthilef.

14 Q: Okay. Could you spell his last name ...

15 A: G-o-t-t-h-i-l-e-f.

16 Q: Okay. And what is this, what ... is he still alive,
17 do you know ...

18 A: No. He's deceased?

19 Q: What did he do at the time?

20 A: He was a CPA, financial adviser.

21 Q: And where was he out of?

22 A: Miami.

23 Q: Okay. And at any of this time while you were in the
24 Deerfield Beach area, did you ever have an opportunity
25 to meet Robert Bentley, Jr.?

1 A: I met him maybe in '84.

2 Q: Do you recall where you met him and under what
3 circumstances?

4 A: Met him in probably Fort Lauderdale. One of my
5 friends owned a bar down there.

6 Q: Okay. So you were bar acquaintances?

7 A: My buddy owned the bar, he was a ... he just helped
8 him out, drive for him ... he was a driver basically
9 for him.

10 Q: And is that ... was that during that period of time
11 when he was employed by the antique business? Did you
12 know him well ... get to know him at the time?

13 A: Antique, no.

14 Q: So you don't know what he was doing then either?

15 A: I just know he drove for this gentleman.

16 Q: That owned the bar?

17 A: Yes, sir.

18 Q: Who owned the bar?

19 A: I can't remember his name.

20 Q: Okay. And this is a different bar than the one you
21 were telling me ...

22 A: Right.

23 Q: ... about before, correct?

24 A: Right.

25 Q: And do you know if it's still located in Fort

1 Lauderdale ...

2 A: I have no clue.

3 Q: When is the last time you were in Fort Lauderdale?

4 A: A long time ago.

5 Q: Okay. And then what did you do in your career after

6 this?

7 A: I was working with ... well, Morris had some things

8 going on, and I was working with a lady in the real

9 estate business, and she was putting together some

10 packages, and I was trying to help her raise capital

11 for them.

12 Q: And who was that lady?

13 A: Gloria Miller.

14 Q: And is she a ... does she have her own real estate

15 company?

16 A: Yeah. She did at the time.

17 Q: And do you know what the name of it was ...

18 A: I ... you know something, it slips my mind. I just...

19 Q: Okay. And do you know if she's still alive?

20 A: No. She's deceased.

21 Q: Okay. So you were trying to raise her ... help her

22 raise some investment funds for some kind of

23 development or other projects you were doing ...

24 A: Small real estate things that she had and Morris was

25 involved.

1 Q: All right. And how long did this take?
2 A: Probably the '88-'89 era.
3 Q: Okay. And were you employed by her, or was your
4 father still supporting you?
5 A: She helped me out a little bit, and my dad still was
6 assisting.
7 Q: Okay. Were you still married to your first wife?
8 A: No, I was not.
9 Q: Okay. When did ... you said you and she got divorced
10 when?
11 A: Try '85-'86.
12 Q: Okay. And was the divorce in Broward County?
13 A: No. It was in Palm Beach County.
14 Q: Palm Beach County. And I assume you didn't have any
15 children?
16 A: Two children.
17 Q: With her?
18 A: Yes.
19 Q: And they're adults now?
20 A: Yes.
21 Q: Okay. And I'm sorry, but I'm not good with names.
22 You said her name ... her maiden name was what now?
23 A: Pollack, I think.
24 Q: Okay. And about '85 you got divorced?
25 A: '85-'86.

1 Q: Okay. So you continued to stay in the Broward County
2 area, and this gets you up to about '90, is that
3 correct?

4 A: Correct.

5 Q: And what happened after that?

6 A: I went over to Naples, Florida.

7 Q: Uh-huh. And were you employed in Naples?

8 A: Not at that time. I met some people over there that
9 wanted to put together a ... I was basically working
10 with a finance group over there.

11 Q: And what finance group was that?

12 A: Oh, man. It was called like Pyramid Capital or
13 something.

14 Q: Was it a corporation, do you know?

15 A: Not sure.

16 Q: Do you know ... remember the names of any of the
17 people you were involved with?

18 A: Oh, God. This guy, I can't, I can't remember his name
19 offhand.

20 Q: Are they still in business?

21 A: I have no clue.

22 Q: What were they trying ... what were they doing?

23 A: They were basically like raising capital ... a venture
24 capital group they were putting together over there.

25 Q: And how is it that you were able to assist them in

1 raising money for venture capital?

2 A: I had a lot of good contacts through Morris.

3 Q: And Morris was the accountant in Miami?

4 A: Yes. Morris died.

5 Q: Do you recall when?

6 A: `88-`89 era.

7 Q: Okay. So you still knew some people that Morris had

8 introduced you to ...

9 A: Oh, yeah.

10 Q: So you were trying to use your contacts to help these

11 people become a venture capital firm, is that it?

12 A: Correct.

13 Q: All right. And so were they ... were you successful

14 and able to help them raise funds?

15 A: There was a problem. I just didn't feel comfortable

16 with it. The guy was just not somebody I had wanted

17 to do business, and a friend ... I met a couple of

18 people over there that kind of said stay away from it,

19 so I did.

20 Q: Okay. So after messing with the Pyramid Capital

21 group, did you stay in the Naples area?

22 A: Yes.

23 Q: And what did you do next?

24 A: I was working with a guy named Jim Lawrence.

25 Q: Okay. Who is Jim Lawrence?

1 A: Jim Lawrence was a gentleman over there that used to
2 be in the cemetery business, I believe.
3 Q: He owned funeral homes, or ...
4 A: I think it was cemeteries and not funeral homes ...
5 Q: Okay.
6 A: ... and maybe it was funeral homes and cemeteries. I
7 have no clue.
8 Q: Okay ...
9 A: I mean, that's one or the ... I mean ...
10 Q: Okay. I understand. Is he still alive?
11 A: I'm not sure.
12 Q: Is ... would he still be in Naples to your
13 knowledge...
14 A: He might be.
15 Q: That's where he lived, Naples?
16 A: Yeah.
17 Q: And how long were you working with him, and what was
18 your working relationship with him?
19 A: That was basically ... he was putting together ... it
20 was almost like arbitrages.
21 Q: Explain, please?
22 A: An arbitrage is basically taking collateral and
23 funding deals off collateral.
24 Q: So what was he using for collateral, his cemeteries?
25 A: No. There's difference of ways to use collateral,

1 where you can get a collateral based company or group
2 that has tremendous collateral, and you would use
3 their collateral to try to fund deals.

4 Q: Okay. So you were trying to find groups with
5 collateral that he could use to help fund deals?

6 A: Correct.

7 Q: All right. Were you successful in doing that?

8 A: That was interesting. Some small stuff, but the big
9 stuff never materialized.

10 Q: And were ... did you actually get paid for work--
11 helping him?

12 A: I think we made a few bucks but not much.

13 Q: You were still being supported in part by your father?

14 A: Right.

15 Q: And how long ... and this takes us up to what, '91-
16 '92?

17 A: Right around '90-'91 era ...

18 Q: Okay. And what ... where do we go from '91?

19 A: '91, well, I met Brenda around '90-½ to '91. I didn't
20 see much potential. I was working on some stuff
21 periodically consulting with some people out of Boston
22 to Atlanta, helping them clean up some problems they
23 had, and decided Florida wasn't for me, and we moved
24 ... and Brenda decided to file for divorce around '90,
25 '90, and we moved in '91-'92, I believe up to

1 Pinehurst.

2 Q: Okay. And were you and she divorced?

3 A: Who?

4 Q: You said she filed for divorce ...

5 A: She was married at the time I met her. She was

6 separated.

7 Q: Oh, okay. She was not married to you at the time?

8 A: No.

9 Q: Okay. And so she got divorced from whomever she was

10 married to, and the two of you moved to Pinehurst, is

11 that correct?

12 A: That's correct.

13 Q: And when do you think that was?

14 A: '92 ...

15 Q: All right.

16 A: ... '93.

17 Q: So that gets us to the '92-'93 time frame. What did

18 you do when you got to Pinehurst?

19 A: I was helping a guy out of Chattanooga, Tennessee who

20 got in a serious car accident in the golf ball

21 recovery business.

22 Q: You were employed by him?

23 A: No.

24 Q: Well, how were you helping him in the golf ball

25 recovery business?

1 A: This was a friend of mine that got in a very bad
2 accident and needed my assistance to help him out in
3 Chattanooga and the area.

4 Q: Okay. So you were going to Chattanooga?

5 A: Oh, I went and stayed with him in Chattanooga. He was
6 in the hospital for like a month.

7 Q: Okay. But you weren't employed by him?

8 A: No.

9 Q: Were you married ... had you married at that time?

10 A: No.

11 Q: Okay. And so you went up to Chattanooga for about a
12 month, and then you came back to Pinehurst?

13 A: No. That's when I helped him out, and basically I got
14 Brenda and everybody ... in the golf ball business,
15 you go to different golf courses, and I helped him
16 expand his business in the golf ball recovery
17 business.

18 Q: And by "recovery," you mean like getting balls out of
19 the water hazards and things like that?

20 A: That's correct.

21 Q: All right. And so you helped him establish that. Did
22 he give you part of the business or otherwise pay you?

23 A: No. He promised to pay me.

24 Q: Okay. When did you and Brenda marry?

25 A: `94.

1 Q: Okay. So this was in '92 that you were doing the golf
2 ball stuff ...

3 A: '92-'93.

4 Q: All right. And we talked earlier about your education
5 and stuff. During any of these periods of time that
6 we've gotten up to, about '92 or '93 or where-- in
7 that vicinity, did you ever go back to any formal
8 education?

9 A: No.

10 Q: Okay. And so you helped him get his golf ball
11 recovery business up and running, and at some point in
12 time, you left that to go do something else?

13 A: I left that and went back to Pinehurst and worked with
14 a company there in the medical field.

15 Q: Do you recall the name of that company?

16 A: Yes. Trillion.

17 BY COURT REPORTER: Can you spell that,
18 please?

19 A: T-r-i-l-l-i-o-n, Trillion, Trillion.

20 Q: And what does Trillion do, is ...

21 A: They were ...

22 Q: ... that medical device sales?

23 A: They were in the wound business.

24 Q: Is that because of the marine base?

25 A: No. They were in Pinehurst, North Carolina, and

1 created a micro current stimulator that would enhance
2 the healing of wounds.

3 Q: Is that company still in existence?

4 A: I don't think so.

5 Q: Did they sell out to some manu-- medical device firm,
6 or do you ...

7 A: I have no clue.

8 Q: Okay. Now, what ... were you employed by them?

9 A: No. I was working with them. At the time, they
10 didn't have the capital to pay.

11 Q: So how long were you with them?

12 A: I worked with them on that project ... oh, man, maybe
13 a year or two, but that ... in that field, current
14 stimulator also accidentally worked into what's called
15 hair removal, and it's ... it worked from one entity
16 to another entity, and I got involved in the hair
17 removal business.

18 Q: And the same people?

19 A: The people that had been at the stimulators created a
20 ... we created a micro current device that would
21 remove hair through electrolysis.

22 Q: And what was the name of that company?

23 A: American Hair Removal and Innovations International
24 Industries or something like that. We called it III.

25 Q: And were you a part owner?

1 A: At that time, I was a partner in Innovations
2 International Industries.
3 Q: And did that contribute to your support, or ...
4 A: Yes.
5 Q: So that did ... you were employed by International ...
6 A: Yeah. Well, I was getting paid by them.
7 Q: Innovations International?
8 A: Yeah.
9 Q: And how long did that last?
10 A: Maybe a year, a year and a half.
11 Q: Is that company still in existence?
12 A: I don't believe so. I don't think so. I don't know.
13 Maybe American Hair or whatever, but there was another
14 person. I was just a small player in that.
15 Q: Okay. And so you worked for them for awhile, and for
16 which you actually had a job with them. In about
17 ninety when did that stop?
18 A: Man, I can't remember the dates.
19 Q: I understand. I'm just asking for approximations.
20 A: I would say maybe ... I'm just trying to figure out
21 when I did it. Maybe `95, maybe `95-`96.
22 Q: Okay.
23 A: Okay. Yeah, right around there, around `95-`96. I
24 think they ... something had a ... there was a problem
25 with the inventor and one of the principals, and they

1 just did a deal, and then they went their own ways.
2 The investors got their money, plus everybody split
3 apart.

4 Q: All right. And what happened after the Innovation
5 International?

6 A: I think it was like '96, and my wife and I decided we
7 wanted to vacation a little bit in Colorado and
8 decided to move to Colorado, I think in '97.

9 Q: What part of Colorado did you move to?

10 A: Called Dillon.

11 Q: And where is that?

12 A: It's up in the mountains. West of Denver about 60
13 miles.

14 Q: All right. And how long did you stay in Colorado?

15 A: 1997 to 1999.

16 Q: And what did you do while you were there?

17 A: Huh, that's funny. That was a heck of a business. I
18 helped a guy promote a product called Mountain Sports
19 Cider in the beginning.

20 Q: Who was the fellow that was putting that together?

21 A: I can't remember. It was Mike something.

22 Q: Did he employ you to do that, or were you just kind
23 of...

24 A: He gave me ... he helped ... he supported me when I
25 was out there helping him ...

1 Q: Okay. So you were employed, and ...
2 A: Not employed, supported.
3 Q: Okay. Supported, what's the difference?
4 A: I never got any 1099, so I didn't know how we were
5 working it out, but I helped him out and tried to
6 promote his product out there.
7 Q: Well, I mean, did he give you like a sum of money a
8 week or a month?
9 A: No. I just ... I had some monthly bills, and he would
10 just pay them.
11 Q: So he was paying your bills. And what was the name of
12 the company?
13 A: I think ... I don't know ... recall the name. It was
14 like Mountain Sports or something or some cider thing
15 put together. It was his, it was his thing. It
16 wasn't mine. I just helped him get it into some of
17 the major ski resorts.
18 Q: While you were out there, and you were married, was
19 your wife employed?
20 A: She worked for a company out there, a clothing
21 company.
22 Q: Okay. And what did she do, do you know?
23 A: Well, managed and sales.
24 Q: So she's in ... kind of in management. Does she have
25 any kind of particular areas of expertise that she

1 has?

2 A: She's a people person. She's good in management.

3 Q: Okay. So she's personnel oriented and management

4 oriented?

5 A: She worked at the Naples Beach Club as a manager.

6 Q: Okay.

7 OFF THE RECORD (T1/S2)

8 Q: All right. So you stayed out there until about `99 in

9 Colorado, and what did you do when you decided to

10 leave Colorado?

11 A: It was cold, and we decided to move back to North

12 Carolina.

13 Q: So you did that in about `99?

14 A: I would say, yes, April or May ... May or ... May of

15 `99, May or June.

16 Q: Okay. And back to Pinehurst?

17 A: Yes, sir.

18 Q: Why Pinehurst?

19 A: We always kept a residency there.

20 BY COURT REPORTER: Pardon me? I didn't

21 hear what you said ...

22 A: We kept a residency there all the time ...

23 BY COURT REPORTER: We kept. I just didn't

24 understand what you said.

25 Q: Okay. So you moved back to Pinehurst, and what did

1 you do once you got back to Pinehurst?

2 A: That's when I met with Tim Morgan ... it was a little

3 prior when I came back one time, I met with a

4 gentleman named Tim Morgan, but prior to moving back,

5 I went to Florida while I was living in Colorado to

6 meet with a gentleman called Paul Simmons.

7 Q: Okay. And who is Paul Simmons?

8 A: He was the, he was the owner of Nutriceutical Clinical

9 Laboratories, Inc.

10 Q: In Tampa?

11 A: Yes, sir. St. Pete.

12 Q: Does he still own it?

13 A: I don't have a clue. I don't think so.

14 Q: Why did you go visit with him?

15 A: I got a call from a guy in Texas saying that this guy

16 needs contacts, can you help him, and I said, let me

17 go meet him.

18 Q: So you went and met him, and what was he looking for?

19 A: Contacts and money.

20 Q: And the contacts for the money?

21 A: And contacts for money.

22 Q: Okay. So what other kind of contacts were you looking

23 for?

24 A: Companies.

25 Q: Okay.

1 A: To create sales. He had a nutraceutical line ...
2 Q: Okay.
3 A: ... at the beginning.
4 Q: What is a nutraceutical?
5 A: Basically it's vitamins. That's what he was mostly
6 doing, some vitamins ... new vitamins that they were
7 creating.
8 Q: Okay. And so do you know if this company is still in
9 existence?
10 A: I believe so.
11 Q: Do you know if it still has the same name?
12 A: They changed it to ... what is the name of that
13 company now? Gary Harrison's company. Preservation
14 Science.
15 Q: Okay. And did you introduce him to Harrison?
16 A: No.
17 Q: How does Harrison come into the picture?
18 A: I have no clue. You've got to ask Paul Simmons.
19 Q: Is Har-- is Simmons still involved with Harrison?
20 A: That's ... I have ... I don't believe so, but I ...
21 that's ... I have no recollection of that and no clue.
22 Q: This is about 2000, and so you ... somewhere around...
23 A: This is 1999.
24 Q: ... you ... okay. So `99, you go to St. Petersburg,
25 and you meet with Simmons, because Simmons is looking

1 for contacts, private capital he can raise ...

2 A: And expanding his network.

3 Q: Okay. And why is he ... why you, why is he ... who

4 put you in touch with Simmons?

5 A: Some guy out of Texas. I don't know how he got my

6 number.

7 Q: Okay. And, you know, what is your expertise, your ...

8 A: I have a lot of contacts.

9 Q: And that all goes all the way back to the CPA in

10 Miami?

11 A: Probably before that, but a lot of it was from him.

12 Q: Okay. And so you have contacts where, in South

13 Florida, Michigan?

14 A: All over.

15 Q: All over, and that's just from all these things you've

16 worked in?

17 A: That's correct.

18 Q: Okay. So you go to see Simmons and Harrison over the

19 vitamins that he's trying to promote.

20 A: Not Harrison. Harrison is not involved ...

21 Q: Okay. Harrison is not there yet?

22 A: No.

23 Q: So it's Simmons at the time?

24 A: Correct.

25 Q: And so you go see Simmons, and is he looking to employ

1 you, or is he looking to hire you saying, I'll give
2 you a commission for what you raise, what's the deal
3 with Simmons?

4 A: Well, at the beginning, it was basically see what he
5 has, and see how we could work ... or what attributes
6 we could bring ... that I could bring and vice versa,
7 what we could do together.

8 Q: Okay.

9 A: Just a general meeting then.

10 Q: Okay. And so did it go past that?

11 A: Yes.

12 Q: What happened after that?

13 A: Okay. We moved back to Pinehurst eventually. I
14 remember May or something. I went down and met him in
15 ... periodically during this time, and I was ... I
16 hooked him into an internet group called UTI. The
17 gentleman's name was Tim Morgan that I met in
18 Pinehurst, North Carolina, who had an internet
19 company.

20 Q: Okay. So you introduced him to Timmy Morgan. What
21 happened after that?

22 A: They were going to put together a program to market
23 his product on his internet or whatever he was working
24 on. I'm not an internet guy.

25 Q: Okay. So you're just the contact guy, that's your

1 expertise ...

2 A: Correct. And then if something ... that was it.

3 Q: Okay. So that's how you meet Timmy Morgan and you

4 meet Paul Simmons. Now, was either one of those two

5 paying you, were you employed by either one of those?

6 A: No, not yet.

7 Q: Okay. So you're back in Pinehurst, you're putting

8 Nutriceutical together with Timmy Morgan and UTI, and

9 what happens next?

10 A: I see a jar on a half refrigerator and ask Simmons

11 what is it, and he said, that's an all natural

12 preservative ... food preservative.

13 Q: Okay.

14 A: And I asked him, what does that do, and he said, it's

15 all natural, and it preserves food, and it's clear,

16 and I said, I may have an idea for you.

17 Q: Okay. And what was that idea?

18 A: To get a-hold of one of my contacts, Jim McKinstry

19 from RC Cola, and ask him if he would be interested in

20 looking at an all natural preservative, because I had

21 never seen one.

22 Q: Okay. So was he?

23 A: Very interested.

24 Q: Is that the beeswax product?

25 A: At the time, that had no, that had ... I don't believe

1 it had beeswax. It had a ...

2 Q: Wax product?

3 A: ... wax paper, that's it.

4 Q: Okay. It's the wax paper product. And so

5 Nutriceutical, you were trying to help promote the

6 sales to RC Cola?

7 A: This is correct.

8 Q: And were you getting a sales commission, or were you

9 employed by anybody in this?

10 A: Not yet, but I was going to get ... there was a lot of

11 research and development for starts into a project

12 like this.

13 Q: Okay. Let's see what else. I don't know why this is

14 happening, but maybe we can stop for a couple of

15 minutes.

16 OFF THE RECORD

17 Q: Mr. Manos, I think the last thing we were talking

18 about was around the '99-2000 time with Paul Simmons

19 and you and Tim Morgan?

20 A: Correct.

21 Q: Okay. So tell me what happened from that ... because

22 this was ... this occurred about the time you moved

23 back from Pine-- to Pinehurst from Dillon, Colorado,

24 is that correct?

25 A: Correct.

1 Q: All right. And so what happened next in this?

2 A: What kind of, what kind of what, you mean specific,

3 or...

4 Q: Well, I mean, did you go to work for somebody, did ...

5 were you trying to put a deal together, what was

6 happening with all that?

7 A: I was trying to put a deal together.

8 Q: Okay. And did it work?

9 A: I thought it was.

10 Q: Okay. I guess that means in retrospect it didn't?

11 A: Didn't materialize.

12 Q: Okay. So you used some of the contacts that you've

13 had over the years and put some people with Paul

14 Simmons, and I guess one of those people was Tim

15 Morgan because of his internet?

16 A: Yes.

17 Q: Okay. And you had other financial people you were

18 trying to put together with him?

19 A: Yes.

20 Q: Okay. So how long did you work on this deal, about a

21 year?

22 A: I worked with that until probably November of '99.

23 Q: Okay. And so what did you do next?

24 A: I met with Bud Bendiner.

25 Q: Okay.

1 BY COURT REPORTER: Can you say it again?

2 A: I met with Bud Bendiner.

3 BY COURT REPORTER: Can you spell that last

4 name?

5 A: B-e-- wait. B-e-n-d-i-n-e-r, Bernard or Bud.

6 Q: Okay. And where was he out of?

7 A: I believe Indiana.

8 Q: Okay. And was that where his operation was, Indiana?

9 A: I believe so.

10 Q: Okay. And so what was his ... well, what did you meet

11 with him about?

12 A: The product he developed.

13 Q: Was it the product that you saw on the ... at ... when

14 you were down at Paul Simmons'?

15 A: Yes.

16 Q: Okay. So that was the all natural preservative that

17 you made reference to when you were talking about Paul

18 Simmons?

19 A: Yes.

20 Q: Okay. And so he was ... Bendiner was out of Indiana

21 you think?

22 A: I believe.

23 Q: Illinois, Indiana ...

24 A: I believe.

25 Q: ... somewhere in the Midwest?

1 A: I believe.

2 Q: Okay. So you met with him. Where did you meet with

3 him?

4 A: He contacted me, and we met in North Carolina in

5 December, I believe.

6 Q: December of `99?

7 A: Yes.

8 Q: And what happened as a result of that?

9 A: He wanted to work a deal out.

10 Q: All right. And did you?

11 A: We worked on a deal, yes.

12 Q: Well, working on a deal and working a deal out can be

13 two different things.

14 A: Yes. We worked out a deal.

15 Q: All right. And what was that deal?

16 A: The deal was to pay him monies for his invention.

17 Q: And who was going to pay him money?

18 A: The company to be formed.

19 Q: And what company was that going to be?

20 A: One ... the Bendiner Group or Bendor Group, --d-o-r.

21 Q: Okay. So he wanted to sell his invention. Was he

22 trying to cash out a little bit, or was he trying to

23 just broaden his capital base, or what was his goal?

24 A: He wanted to get some cash stream going and have a

25 long-term buy out.

1 Q: And so he didn't offer ... he already had the product,
2 is that correct?

3 A: Yes.

4 Q: And is that something he had some intellectual
5 property protection on?

6 A: That, I believe is true.

7 Q: Okay. His product he patented at some point in time?

8 A: Yes, I believe it's true.

9 Q: So what he wanted to do was take the product that
10 either he was in the process of patenting or had
11 patented, put it in a company, raise a bunch of money
12 and basically give himself a nice goal and parachute,
13 and let the company go on?

14 BY MR. UPTON: I object, that calls for
15 speculation on the what part, but ...

16 Q: I understand.

17 A: I, I would say that was close.

18 Q: Okay. Well, he was looking for a mechanism to cash
19 out?

20 A: Yeah, and keep his family going.

21 Q: Okay. So did you help with that?

22 A: Yes.

23 Q: Okay. And so what entity was formed?

24 A: The Bendiner Group was formed.

25 Q: Okay. And was that an Illinois or Indiana entity or

1 what?

2 A: One was an Indiana entity that was ... had to go and
3 do business in North Carolina, and we called it the
4 Bendiner Group in North Carolina, because the Bendor
5 Group was taken.

6 Q: Okay. So in North Carolina you were doing business as
7 the Bendiner Group?

8 A: Correct.

9 Q: Okay. What was your ... and was that a legal entity,
10 an L.L.C., a corporation, partnership, what kind of
11 entity was it?

12 A: L.L.C.

13 Q: Okay. Were you a member of that entity?

14 A: Yes.

15 Q: Were you a manager of that entity?

16 A: Yes.

17 Q: Okay. And what, if any, intellectual property rights
18 did that entity in North Carolina L.L.C. have?

19 A: It was basically a document of assignment, and it was
20 four through 10.

21 Q: Okay. And when you say "four through 10," are you
22 talking about claims and a patent?

23 A: Patent ... that would be patent, descriptions of
24 different inventions that he was creating, and he
25 would identify them each separately.

1 Q: So he owned the invention, is that correct?

2 A: This is correct.

3 Q: To your knowledge. I'm just asking you for your

4 knowledge.

5 A: To my knowledge.

6 Q: Right. Well, I want to make sure you understand. I'm

7 asking you for your best knowledge about this. And so

8 he was going to put it in this entity that y'all

9 established in North Carolina called the Bendiner

10 Group, L.L.C., that's correct?

11 A: Yes.

12 Q: And for that, he got, I suppose a significant

13 membership interest in the L.L.C.?

14 A: Correct.

15 Q: And you got a membership interest in it also?

16 A: Yes.

17 Q: Okay. And so the purpose for doing that was to then

18 go out, sell, license or something the product that

19 was ... that the intellectual property was on to

20 different people to sell it, make money, raise money?

21 A: Yes.

22 Q: Okay. And you were employed by the Bendiner Group, or

23 ... I mean, like were you a salaried person, did you

24 get paid if you raised money or a commission, how were

25 you ... what was your relationship?

1 A: We were never employed.
2 Q: Okay.
3 A: We never had employment contracts.
4 Q: Okay. Did you ever receive a salary?
5 A: No.
6 Q: Did you ever have your expenses paid by the Bendiner
7 Group?
8 A: Yes.
9 Q: And when I say "expenses," we're talking about housing
10 allowance, gasoline, vehicle, what?
11 A: I would say travel.
12 Q: Just your travel expenses?
13 A: Those were paid.
14 Q: Okay. But your personal living expenses were not
15 paid?
16 A: Not from the Bendiner Group, they were not paid.
17 Q: We talked about a number of these things. You're
18 still married at this time, correct?
19 A: Yes.
20 Q: And so is your wife supporting your personal expenses?
21 A: My wife had some things going on, yes.
22 Q: Okay. And is your father still supporting some of
23 your personal expenses?
24 A: No.
25 Q: Okay. Not by 2000. When did that quit?

1 A: I, I can't recall, but it's back a ways.
2 Q: Okay. Now, who ... is Tim Morgan a part of the
3 Bendiner Group?
4 A: Yes, he was.
5 Q: Anybody else in Pinehurst a part of the Bendiner
6 Group?
7 A: Yes.
8 Q: Can you tell me who?
9 A: Joe Winkiel.
10 Q: Joe Winkiel, and who else?
11 A: Bud Bendiner.
12 Q: Bud Bendiner.
13 A: Mark Westbrook.
14 Q: Mark Westbrook.
15 A: Jim Halpin.
16 Q: You probably better spell the last name ...
17 BY COURT REPORTER: Please ...
18 A: H-a-l-p-i-n.
19 Q: Okay. And who else?
20 A: Jerry Reid, R-e-i-d.
21 Q: Anybody else that you recall?
22 A: I believe there were some investors that were
23 involved, but there would have to be a list of the
24 quantified investors.
25 Q: Okay. These people have ownership interest, and

1 others may just have had an interest through
2 investment?

3 A: Yes.

4 Q: Okay. Now, this ... the Bendiner Group had rights to
5 this clear natural food preservative, and that's, I
6 think you said the one that had ... the wax paper was
7 a part of it, is that correct?

8 A: I believe so.

9 Q: All right. And what did it do with that, did it sell
10 it, did it sell licenses to it, what did it do with
11 the product it had?

12 A: It was selling product.

13 Q: Okay. And who was it selling it to?

14 A: A company called Mid South.

15 Q: And where is Mid South located?

16 A: South Carolina.

17 Q: And are they some type of company that uses food
18 preservative, or do they just take it and resell it to
19 people that they do business with?

20 A: End user.

21 Q: They're an end user, and what ... they're a baker or
22 what?

23 A: Dog food.

24 Q: Dog food. All right. And where was this product
25 being manufactured?

1 A: At ... in a little small town, at ... I can't recall
2 the name of the town. It's a real dinky town.
3 Q: Okay. In North Carolina?
4 A: Yes.
5 Q: Around Pinehurst?
6 A: Just north of Pinehurst.
7 Q: Okay. So it was selling product to a dog food company
8 in South Carolina. Were you involved in the formation
9 of Wonders of Water?
10 A: No, I wasn't in the formation of it.
11 Q: Okay. Who was involved in the formation of it, do you
12 know?
13 A: I believe it was Joe Winkiel.
14 Q: Okay. You became a member and a managing member of
15 Wonders of Water, is that correct?
16 A: Correct.
17 Q: And from what I saw, it looked to me like there were
18 four managing members of Wonders of Water?
19 A: Correct.
20 Q: And those four managing members from what I saw would
21 be you, Joe Winkiel, Tim Morgan and Mark Westbrook?
22 A: Correct.
23 Q: And in addition to that, there were other non-voting
24 and investor members of Wonders of Water, is that
25 correct?

1 A: Yes.

2 Q: Okay. Now, did Wonders of Water acquire some
3 intellectual property rights or something that
4 resembled that from the Bendiner Group?

5 A: No.

6 Q: Wonders of Water now possesses a patent for a clear
7 liquid that also is a rust inhibitor. Are you aware
8 of that?

9 A: What patent, which one?

10 Q: The only one that's gone to patent, because we haven't
11 talked about any of the applications.

12 A: So that would be like the old patent?

13 Q: That would be what WOW applied for.

14 A: Okay. Well, I call it the old patent.

15 Q: Okay. We're referring to the U.S. patent number
16 6,833,087, which is captioned 2,4 hexadienoic acid and
17 its alkaline salt derivatives for preventing oxygenic
18 erosion with metals, and you're familiar with that?

19 A: Correct.

20 Q: Okay. And, in fact, listed on there are ... as
21 inventors are you and a person named Robert A. Beck,
22 is that correct?

23 A: Correct.

24 Q: Now, how is that product different than what the
25 Bendiner Group had?

1 A: It's ... it worked.

2 Q: Okay. Well, that's a good difference, because

3 apparently the Bendiner product didn't work

4 satisfactorily, but ... and is that correct?

5 A: If you read that patent, that's for corrosion of

6 metals, I believe.

7 Q: Right.

8 A: One was a food preservative.

9 Q: Okay. This one also has claims in it for food

10 preservation, doesn't it?

11 A: It has, to be used with foods.

12 Q: Okay. Now, how ... other than the fact that it's ...

13 other than the fact that you characterized the WOW old

14 patent as something that worked, and the Bendiner as

15 something apparently that didn't by the way you stated

16 it, what is the chemical difference in those two,

17 because as I understand it, the Bendiner product went

18 to a patent also, is that correct?

19 A: I believe it did.

20 Q: Okay. So normally you can't patent the same thing

21 twice, so how is this different from the Bendiner

22 product?

23 A: The Bendiner patent, I believe says potassium sorbate

24 was used just as a corrosion protection.

25 Q: Okay. So you were with the Bendiner Group around

1 2000, the beginning of 2000 ...

2 A: Correct.

3 Q: ... late '99 and early 2000, is that correct ...

4 A: Right. Correct.

5 Q: And you apparently know Tim Morgan because of Paul

6 Simmons and his wanting to use UTI, is that correct?

7 A: I met him in Pinehurst, that's ... and that was ... I

8 brought him to Paul Simmons.

9 Q: Right. I understand that. That's what I'm saying.

10 You knew Tim Morgan because of that relationship with

11 Simmons?

12 A: Well, with UTI, and he was living in Pinehurst.

13 Q: Okay. And is he still living in Pinehurst?

14 A: I haven't got a clue.

15 Q: Okay. So how long did you stay with the Bendiner

16 Group?

17 A: I worked with the Bendiner Group all the way ... I

18 believe it's still active.

19 Q: Okay. Are you still a member of the Bendiner Group?

20 A: The way I read it, it looks like every-- it's still

21 members in there.

22 Q: Okay. But at some point in time, you were involved

23 with the Bendiner Group, it was paying your travel

24 expenses, although not paying you a salary or a

25 commission, is that correct?

1 A: Correct.

2 Q: And you were attempting to sell its product, and it
3 had one company, which was the South Carolina company
4 for use in dog food ...

5 A: Correct.

6 Q: ... correct? And so that was around the first of
7 2000?

8 A: Correct.

9 Q: And so my question is, how long did you stay involved
10 actively in the management of the Bendiner Group?

11 A: I was involved with them all through ... I mean, I'm
12 still ... it looks like I'm still active ... I mean,
13 you know, with it.

14 Q: Okay. Well, let's see if we can come to an
15 understanding about that. You may still have an
16 ownership interest in it ...

17 A: Pos--

18 Q: ... if they issued you a membership interest, correct?

19 A: Possibly.

20 Q: Okay. Have you transferred that to anybody?

21 A: No.

22 Q: Okay. But separate and apart from any interest you
23 may have as a member of the Bendiner Group, around the
24 end of '99 and 2000, you were active ... actually
25 active in the business affairs trying to sell the

1 product, trying to find markets and other things for
2 its product, correct?

3 A: Correct.

4 Q: Okay. My question to you is, how long did you stay in
5 that capacity with the Bendiner Group?

6 A: In the capacity in the sales?

7 Q: Well, just active in the management, whether it be
8 sales or other management, capital raising, whatever.

9 A: I was working with them all periodically through a
10 lawsuit against Bud Bendiner.

11 Q: Okay. And who was the lawsuit by?

12 A: The Bendiner Group.

13 Q: Okay. So the Bendiner Group sued Bud Bendiner?

14 A: That's correct.

15 Q: And where was that litigation?

16 A: North Carolina.

17 Q: Pinehurst?

18 A: Moore County.

19 Q: Moore County, where is that in relation to Pinehurst?

20 A: That's in the county.

21 Q: Okay, okay. And what is the county seat of Moore
22 County?

23 A: Huh?

24 Q: The county seat of Moore County?

25 A: Like ... seat?

1 Q: Where the government is located for the county?
2 A: Carthage.
3 Q: Okay. And that would be where the litigation was
4 going on, in Carthage?
5 A: Well, would have.
6 Q: Okay.
7 BY COURT REPORTER: Winnow?
8 A: Huh?
9 BY COURT REPORTER: Winnow you said?
10 A: Carthage.
11 BY COURT REPORTER: Okay.
12 Q: You said "would have," but ...
13 BY COURT REPORTER: Would have.
14 A: Would have.
15 Q: ... it got resolved, it wasn't filed ...
16 A: Yes. Yes.
17 Q: Okay. So it was ... was it ever filed?
18 A: I believe so.
19 Q: Okay. Do you recall who any of the lawyers were?
20 A: Robert Craig.
21 Q: And who did he represent, if you know?
22 A: The Bendiner Group.
23 Q: Okay. And where is he located, Pinehurst or Carthage?
24 A: No. Someplace up there in ... I can't remember that
25 area, believe it or not. I ...

1 Q: Okay. That's fine.

2 A: ... thought, thought Brunswick, but I know it isn't

3 it.

4 Q: Okay. And who represented Bendiner?

5 A: I think it was Bob Frezen or something or one ...

6 another attorney, Bob Lady or somebody, or it might

7 have been Frezen or somebody.

8 Q: Okay. What was the ... why was the Bendiner Group

9 suing the ... Bud Bendiner?

10 A: I think there was a problem where one of the patents

11 he had assigned, and there was a conflict there, and

12 just resolved it.

13 Q: Okay. Do you know how long that took, was that 2000,

14 longer than that?

15 A: I can't exactly remember when it was settled, but it

16 was, it was like ... it was one.

17 Q: Okay. At some point in time though, you quit being

18 active in the business management or other affairs of

19 the Bendiner Group. What did you do then?

20 A: I was working with WOW or assisting WOW on their

21 project.

22 Q: Okay. And when did you decide ... when did that

23 start?

24 A: Well, that started ... I ... we were selling product

25 to Mid South, and we continued selling product to Mid

1 South when Joe Winkiel formed Wonders of Water, and we
2 were putting it ... they were selling it in Wonders of
3 Water. Joe ran Wonders of Water.

4 Q: Okay. And so how did Joe ... did Joe approach you
5 about coming and being involved in Wonders of Water?

6 A: Joe formed Wonders of Water and brought us all
7 together.

8 Q: Okay. And so what were you supposed to do for Wonders
9 of Water, and what were you supposed to get for what
10 you did?

11 A: Well, all I was doing is making the product at that
12 time for Mid South.

13 Q: Okay. And where ... and y'all had your own little
14 facility somewhere?

15 A: Right.

16 Q: And what were you doing, supervising the ...

17 A: I was helping formulate it.

18 Q: Helping formulate it ... with who ...

19 A: Yes.

20 Q: ... along with whom?

21 A: Myself.

22 Q: It was just you?

23 A: Yes.

24 Q: You weren't helping, you were formulating it?

25 A: That's right.

1 Q: Okay. Now, when you use the term "formulate," I mean,
2 you already had a formula that you were using for the
3 product, you were just ... you were doing the actual
4 manufacturing of the product, correct?

5 A: Right.

6 Q: Okay. And y'all were doing that, you said in some
7 small town in North Carolina?

8 A: Right.

9 Q: When did they cease doing business with the dog food
10 people?

11 A: Good question. I can't remember. It might have been
12 March, April, May. I don't remember. I can't recall
13 the day, but Joe was involved in all of that ...

14 Q: Okay. And this would be 2000?

15 A: That's correct.

16 Q: Okay. So for a couple of months, you were involved
17 with the Wonders of Water group helping them to
18 manufacture the product and sell to the dog food
19 company that the Bendiner Group had been previously
20 selling to the dog food company?

21 A: Correct.

22 Q: Okay. Did Wonders of Water acquire any rights the
23 Bendiner Group had to this product?

24 A: I don't know.

25 Q: You don't know. All right. So you come to be

1 involved with Wonders of Water, and you're ... for a
2 period of time, you're manufacturing this product, and
3 what did y'all call it, do you have ... did it have a
4 name?

5 A: I believe it was called Nature's Secret.

6 Q: Okay. And what was that comprised of?

7 A: A mixture of potassium sorbate with other different
8 types of food grade polymers.

9 Q: Well, do you recall exactly what it was made ... what
10 its components were?

11 A: Yes.

12 Q: Okay. Could you tell me, please?

13 A: Well, 10 percent of polymer, I was using that 3/400,
14 and 3-- it was comprised of 2.5 pounds of potassium
15 sorbate.

16 Q: Okay. Now, what particular ... was the polymer
17 something that you bought from a company? I mean,
18 what was the ... I mean, what was its composition, was
19 it a composition of chemicals, or what was it?

20 A: It was just basically a type of liquid polymer that
21 could be used with food grades that would mix in there
22 and help stabil-- not stabilize but would help keep
23 the product from breaking out of solution.

24 Q: Okay. Well, you're going to have to bear with me,
25 because I'm not very technical. I don't have any kind

1 of undergraduate science degree. A polymer is, as I
2 understand it ... and that's why I've going to ask you
3 to tell me what you understand it to be, is just a
4 composition of a couple of chemicals that have certain
5 viscous type characteristics, is that a correct
6 assumption ...

7 A: It could be a complex.

8 Q: Okay. A complex, such as ...

9 A: Or it could be simple, complex ...

10 Q: Okay. But the one that you're making, you have
11 potassium sorbate, and you have a polymer, but my
12 question to you is, what's in the polymer, and doesn't
13 it matter?

14 A: On this formula, all it did is just held the property
15 together, so they could dilute it down.

16 Q: Okay. So it was a bonding agent of some sort that you
17 would dilute with ... to some percentage, and what's
18 the purpose of the potassium sorbate?

19 A: That was just to use as a preservative.

20 Q: Okay. So the sorbate was a known preservative in
21 2000...

22 A: Right. Yes.

23 Q: Okay. And the question about how you use sorbate is
24 pretty much how you are able to keep it in solution,
25 so that it doesn't decompose, is that, is ... because

1 you were saying something about break down, and is
2 that what you're talking about?

3 A: Basically. That's ...

4 Q: Okay.

5 A: ... what Dr. Beck suggested.

6 Q: Okay. Now, let's talk about Beck. Where does Beck
7 start getting involved in this stuff?

8 A: Back in the Bendiner time.

9 Q: Okay. And how is it that Beck became involved with
10 the Bendiner Group?

11 A: He was doing a lot of research and development back
12 ... way back in the beginning.

13 Q: Okay. Now, what do you know about Dr. Beck?

14 A: He's a food chemist.

15 Q: Okay. And by "food chemist," you're referring to
16 someone who by employment and education has special
17 knowledge about food and chemicals involved in the
18 food process?

19 A: I believe so.

20 Q: Okay. And do you know anything about his educational
21 background?

22 A: No.

23 Q: He does appear to have either an M.D. or a Ph.D.?

24 A: Yes.

25 Q: Do you know which it is?

1 A: I know he isn't an M.D., I believe, but I know he's
2 probably a Ph.D.

3 Q: Okay. And he resides in the general Boston area?

4 A: Yes.

5 Q: Now, is he affiliated with a company called
6 Chromaceutical?

7 A: I have no clue anymore.

8 Q: Okay. When did you first have dealings with Dr. Beck,
9 was it when you were with the Bendiner Group?

10 A: Yeah.

11 Q: Okay. And what was Beck doing for the Bendiner Group,
12 if you know?

13 A: He was testing products that we were formulating at
14 the Bendiner Group.

15 Q: Okay. And so you were doing production of this
16 product you said you were selling to the dog food
17 company, but was anybody doing any research and
18 development other than that?

19 A: Yes.

20 Q: And who was that?

21 A: Well, I was working on some projects with the research
22 and development, and I'm sure that Dr. Beck had to be
23 working on some stuff.

24 Q: Okay. Well, I ... one of the reasons I've asked you
25 what your job experience and your education was is,

1 what by your education would qualify you to be ... to
2 do research on the development of food products?
3 A: I have no formal education. I just was working with
4 Bud Bendiner quite a bit.
5 Q: All right. Now, was Bud there on a ... all the time?
6 I mean, was he back up in the Midwest, was he in
7 Pinehurst, or both ...
8 A: He was in Pinehurst.
9 Q: He was in Pinehurst. And what's Bud's education?
10 A: I have no clue.
11 Q: Okay. But we do know that Dr. Beck has some type of
12 degrees in fields which would apparently qualify him
13 to do this kind of research and testing?
14 A: That's correct.
15 Q: Okay. You believe that he's qualified to do that?
16 A: Everybody is looking at me, but I believe so.
17 Q: Okay. I'm just ... I'm asking you ...
18 A: I believe ... I mean, yeah, I believe so.
19 Q: Okay. So you get involved with this company Wonders
20 of Water that Joe Winkiel is involved in, and what are
21 you two ... what is your job to be with Wonders of
22 Water, and what type of compensation are you to
23 receive for that job?
24 A: Well, I was never hired, so I don't have a job.
25 Q: Okay.

1 A: And I was to assist them on the development of the
2 coatings.

3 BY COURT REPORTER: The codings?

4 A: Coatings.

5 Q: And "coatings," by that do you mean some type of
6 formula that would put some kind of product, whether
7 it be food or other usage, and it would provide what
8 you said, a coating, and it would provide some type of
9 protection as a result of the method of coating?

10 A: Yes.

11 Q: Okay. And what was ... was the focus, what, food,
12 metal? I mean, I noticed the patent of WOW has ... it
13 says for the preventive of met-- protection of metals.
14 Is that what the focus was?

15 A: Yes.

16 Q: Okay. And, in fact, WOW had some kind of relationship
17 with a company called Thermal Metals ...

18 A: Down the road, yes.

19 Q: ... that did some testing of the products that y'all
20 were trying to develop?

21 A: Yes.

22 Q: Okay. And were you involved with working with Thermal
23 Metals with the testing and the stuff that had to do
24 with the metal preservative?

25 A: Yes.

1 Q: Okay. You were not employed like a salaried person by
2 Wonders of Water, correct?

3 A: Yes.

4 Q: Did Wonders of Water like some of the other companies
5 you worked for pay some of your expenses?

6 A: I believe some travel.

7 Q: Okay. So they paid your travel expenses very much
8 like the same arrangement that you had had with some
9 other previous companies you've worked with?

10 A: Similar.

11 Q: Okay. And that at the same time that you were doing
12 that, you received the status of a ... one of four
13 voting managers of Wonders of Water, is that correct?

14 A: Yes.

15 Q: And you received ... from what I saw, it appeared that
16 you received one million membership units in Wonders
17 of Water?

18 A: The same amount of percentages that I had in the
19 Bendiner Group.

20 Q: Okay. And from what I saw, it appeared that your
21 membership interest, Tim Morgan's interest ...
22 membership interest, Joe Winkiel's membership interest
23 and Mark Westbrook's membership interest were the
24 same, and the four of you were the four voting
25 managers of Wonders of Water, is that correct?

1 A: Correct.

2 OFF THE RECORD (T2/S1)

3 Q: Okay. So basically, as I understood it ... and you
4 can certainly tell me if you have a different
5 perception, that the four of you were the real
6 decision makers in Wonders of Water?

7 A: That's not, that's not ... well, in writing, yes. Joe
8 put money into it, and Joe ran Wonders of Water.

9 Q: Okay. So Joe made a capital cash contribution?

10 A: That's correct.

11 Q: Okay. And you brought your experience that you had
12 from the Bendiner Group over to help assist them both
13 in the period of time that y'all manufactured and sold
14 product and in your attempts to help work with the
15 Thermal Metals people to develop new products, and for
16 that you received your membership interest?

17 A: No.

18 Q: Okay. What did you receive your membership interest
19 for?

20 A: For having shares in the old company.

21 Q: In the Bendiner Group?

22 A: That's correct.

23 Q: Well, what ... pardon me if I don't understand this.
24 Did Wonders of Water acquire the Bendiner Group?

25 A: No.

1 Q: Okay. Then why would you get shares in another entity
2 for owning shares in an old one when they're not
3 getting any of the ... either the group or the ...
4 unless they're buying its assets?

5 A: There was an arrangement where the shareholders would
6 be compensated equally in the Bendiner Group and move
7 forward with this group, and the similar shareholders
8 would go with Bendiner, so we were compensated as what
9 we had when the Bendiner Group.

10 Q: So ... I don't think I've ever seen a document that
11 says that, but let me just see if I could ask you.
12 Was that something that was ever reduced to writing to
13 your knowledge?

14 A: I believe there's some stuff that was in writing, yes.

15 Q: Okay. But you're saying ... well, let me ask you
16 this. Did Wonders of Water acquire any of the assets
17 of the Bendiner Group?

18 A: Not to my ... I don't know.

19 Q: Okay. Well, how is it that Wonders of Water starts
20 making the same product that the Bendiner Group was
21 selling to the dog food company after you come over?

22 A: I don't know, and you can ask Joe.

23 Q: Okay. So if Wonders of Water didn't get anything from
24 the Bendiner Group, I guess my question is, I'm trying
25 to figure out why they would give you the same

1 membership interest in Wonders of Water since they
2 weren't getting anything from the Bendiner Group?

3 A: Tim Morgan got the same amount of shares that he got
4 for bringing nothing into the Bendiner ... WOW, Mark
5 got the same amount of shares, and Joe got the same
6 amount of shares.

7 Q: Well, Joe, I understand you said put up some money?

8 A: Oh, yeah. I forgot. He got additional shares. I
9 forgot ...

10 Q: Okay. So he got some additional shares at some point
11 in time?

12 A: Yes, sir.

13 Q: Okay. Now ... and you don't know if today the
14 Bendiner Group is a viable legal entity or not?

15 A: I have ... I am not aware one way or another.

16 Q: Okay. And you're not ... if they were, would they
17 still be in Pinehurst?

18 A: I have no clue. Maybe.

19 Q: Okay. Is Bud Bendiner alive?

20 A: No.

21 Q: So you come over to Wonders of Waters and sometime in
22 2000 become a managing member ... member manager and
23 receive the membership interest, but they ... the
24 entity did not sign an employment agreement with you,
25 and you were not being paid as an employee?

1 A: Correct.

2 Q: Okay. Were they supposed to be paying you as an
3 employee?

4 A: I didn't say anything that they would have to.

5 Q: Okay. Well, my point ... my question to you is, that
6 there was no employment agreement or otherwise that
7 they didn't pay you for that other ... well, I mean,
8 you either had an employment agreement ...

9 A: I didn't have no employment agreement.

10 Q: You had no employment agreement. Okay. So they
11 didn't owe you any wages or any commissions?

12 A: None.

13 Q: Okay. And while you were with the Bendiner Group, you
14 started working with Dr. Beck about the product that
15 the Bendiner Group was selling, which at the time was
16 being used as a food preservative in dog food,
17 correct?

18 A: Correct.

19 Q: Wonders of Water, the focus of Wonders of Water as I
20 understand it was to try to develop a metal
21 preservative using something similar to what you were
22 doing at the Bendiner Group for dog food?

23 A: Similar.

24 Q: Similar. And did you work with Bob Beck on that?

25 A: Yes.

1 Q: And what did Beck contribute to this process?

2 A: Beck was so knowledgeable that when I would show him

3 things, we would converse back and forth and discuss

4 methods of, you know, formulations and things like

5 that.

6 Q: What type of adaptive measures did you have to make to

7 try to create a product which would work in the

8 prevention of corrosion in metals?

9 A: To try to create a food ... or a barrier.

10 Q: Okay. And you said earlier when you were talking

11 about the formulation that you were trying to come up

12 with something that wouldn't break down. Do you

13 remember that phrase?

14 A: That was in the food side.

15 Q: That's in the food side. So in the food side, the

16 problem you were having, as I understand it, was that

17 the preservative itself at some point in time would

18 break down or decompose upon its own and lose its

19 effectiveness?

20 A: That's why they were required to use it within a 30

21 day period, I believe.

22 Q: Okay. So the product that the Bendiner Group had was

23 used ... was selling or offering had its own shelf

24 life, for lack of a better term, for use as a food

25 preservative?

1 A: True.

2 Q: It was ... breakdown, unstable, any of those terms

3 work ...

4 A: Yeah, whatever ... yeah, whatever ...

5 Q: Yeah. Okay. And was that one of the things you were

6 communicating with Beck about and that he was testing?

7 A: He had been testing that property since probably in

8 February, March, I believe ...

9 Q: Okay.

10 A: ... of, of 2000.

11 Q: Okay.

12 A: No. Wait. What year? 2000.

13 Q: Okay. So at some point in time, you're working

14 voluntarily with Mark Westbrook, Tim Morgan, Joe

15 Winkiel and perhaps others to establish this company,

16 Wonders of Water ... which turns out to be Wonders of

17 Water?

18 A: Correct.

19 Q: And at some point in time, you're also continuing to

20 communicate with Beck?

21 A: Time frame?

22 Q: After you go to Wonders of Water. You were

23 communicating with Beck when you were at Bendiner, but

24 when you go over and start working with Wonders of

25 Water, are you still communicating with Beck?

1 A: Correct.

2 Q: Okay. And so Beck is still working to test, or
3 develop, or try new things with the base product that
4 y'all were working with, is that correct?

5 A: He was helping me identify where I was at on some of
6 my formulations.

7 Q: Okay. So at what point in time is it decided and what
8 leads us to the belief that Wonders of Water has found
9 some project ... product that is worthy of the time,
10 effort and energy to seek a patent on?

11 A: Good question. I mean, if you'll rephrase that,
12 because ...

13 Q: Well, Wonders of Water today has a patent.

14 A: Okay.

15 BY MR. UPTON: Well, that's ... I just
16 think that's a legal conclusion.

17 A: Yeah. I can't ... I mean ...

18 Q: Okay. Well ...

19 BY MR. UPTON: I mean ...

20 Q: ... there's a document that says they've got one, so
21 I ... we'll leave it at that, but ...

22 BY MR. UPTON: Okay.

23 Q: ... at some point in time, there was an application
24 for a patent made on behalf of Wonders of Water. Are
25 you familiar with that?

1 A: I believe the first one was a patent ... provisional
2 patent application.

3 Q: Okay. And ... but you are familiar with that?

4 A: The first one is provisional, which was under the
5 Bendiner Group, if I recall right.

6 Q: Okay. And then there's some other type of application
7 that was filed?

8 A: That's ... Holly Heine files that. I have no clue of
9 all that.

10 Q: Okay. Now, Holly Heine was the person with ... that's
11 an attorney that was used by Wonders of Water for
12 their patent work ...

13 A: Was used by the Bendiner Group as their patent
14 attorney in the beginning.

15 Q: Okay. So she's done work for both the Bendiner Group
16 and Wonders of Water?

17 BY MR. UPTON: No. She ...

18 A: She worked for the Bendiner Group first. She was
19 engaged ... retained by them.

20 Q: Okay. Were you involved in that retention, or was
21 that something Bud Bendiner did?

22 A: I did.

23 Q: You did?

24 A: Yes.

25 Q: Okay. I'm going to show you a document here. I'm

1 going to take a little bit of a detour. And when I
2 was looking through the material that was produced
3 today ... I'm referring to Manos 582 and 520. They
4 were different pages, but they actually kind of look
5 like they might ought to be related to each other, but
6 then perhaps they aren't. They're probably about the
7 only two things I can see in here that I recall being
8 handwritten directly. I'm going to show them to you
9 and ask you if you recognize those?

10 A: (READING TO HIMSELF) ... Yeah. Okay. I remember
11 that.

12 BY MR. UPTON: The question is, do you
13 recognize the document.

14 A: Oh, yeah, I remember that.

15 BY MR. UPTON: Okay.

16 A: Yeah. That's my writing.

17 Q: Well, the first question was, who handwrote it, if you
18 know?

19 A: That's my handwriting.

20 Q: Okay. The second question is, do those two ... are
21 those ... one says at the very top, second page, and
22 my question is, is that, those two documents should be
23 page one and page two of the same thing, or are they
24 different things?

25 A: The same. The same.

1 Q: They're the same.

2 A: No. It should be one ... I mean, one ...

3 Q: Okay. It's one document. That's fine. I just ... I

4 wanted to get ...

5 A: That's ... okay.

6 Q: Okay. Thank you for doing that, because I realize

7 when you have that much paper to produce, sometimes

8 things can get out of whack, and I just didn't know if

9 one document was missing the first page or what it

10 was. There appears to be ... obviously most of it is

11 in one type of script, and then there's a bunch of

12 little small notes. Are those notes yours also?

13 A: Yes.

14 Q: Excuse me.

15 BY COURT REPORTER: Do you need to go off?

16 Q: Yeah.

17 OFF THE RECORD

18 BY COURT REPORTER: Okay. Well, just so my

19 record is clear ...

20 Q: I'll be back.

21 BY COURT REPORTER: ... you're ... Mr.

22 Wright, you're going to let Mr.?

23 Q: Caton.

24 BY COURT REPORTER: Caton. All right.

25 EXAM BY MR. CATON:

1 Q: What I'm going to do is ... I am both a defendant in
2 this case, and I'm representing myself pro se, so to
3 try to keep a professional demeanor when asking Mr.
4 Manos questions, I'll refer to myself in the third
5 person, just so we'll try to keep things aboveboard.
6 I'm going to initially focus on a few things that were
7 ... what I'd like to comment on that are in the
8 Bentley deposition and see if you agree with them.
9 I'd like you read this. In one question, Mr. Bentley
10 is asked, "What was it about Manos' work that aroused
11 your investment interest enough for you to start
12 putting money into it?", and go ahead and read his
13 answer. This is his answer here. Just go ahead and
14 read this.

15 BY MR. UPTON: Okay.

16 A: What do you want?

17 Q: Well, he says, using basically similar chemicals, and
18 it's unclear to me. What does he mean, what does ...
19 do you have any idea what he means, or you just, you
20 don't know ...

21 BY MR. UPTON: Well, we're going to object
22 to anything where you're asking him to interpret
23 what Bentley meant.

24 A: I can't answer ...

25 BY MR. UPTON: Because he can't. It's not

1 a trick, but he doesn't know what Bentley means
2 by this. Those should have been asked to
3 Bentley.

4 A: Right.

5 Q: Well, they were, and Bentley didn't know. I believe
6 they were. Looking at page nine, I'm going to ask you
7 to look at this sectioned area, and it says ... just
8 read this answer here and tell me if you know what
9 element that Bentley is referring to, because this is
10 something he's saying that's communicated to you ...

11 A: (READING TO HIMSELF) ... Element, an element, it's an
12 iron.

13 BY MR. UPTON: Well, do you know what he's
14 talking about ...

15 Q: Are ...

16 A: No. I mean, basically what he says, there's something
17 ... an element. I don't know what he's ... what he
18 means by element. I mean ...

19 BY MR. UPTON: Okay.

20 Q: How much money has Robert Bentley invested with you in
21 the past, and do you have any idea how much he's
22 invested with you?

23 A: Invested or loaned ...

24 Q: Well, well, whether it's loaned or investment,
25 whatever form it takes, do you have any idea how much

1 money that Mr. Bentley has given you since he started
2 investing with you in 1999?

3 A: What did you say, nine-- it wasn't '99.

4 Q: Okay. In his deposition, Mr. Bentley says it was 1999
5 or 2000. Was he incorrect?

6 A: Maybe 2000, but not 1999.

7 Q: Okay. Well, let's say 2000. That's fair. How much
8 money would you say that Mr. Bentley has invested with
9 you since the year 2000?

10 A: To date?

11 Q: To date, yeah.

12 A: Or to whenever he stopped?

13 Q: To ... well, when did he stop?

14 A: I believe it was maybe 2005, sometime in 2005.

15 Q: So roughly he was investing with you from 2000 until
16 2005?

17 A: Uh-huh.

18 BY COURT REPORTER: That's a yes instead of
19 "uh-huh?"

20 A: Yes.

21 Q: Do you have any idea how much money he invested with
22 you or how much money he gave you, whether it's loan
23 or equity, it doesn't matter?

24 A: About two-- maybe \$250,000.00 to \$300,000.00.

25 Q: And did you keep any records of what he gave you?

1 A: I didn't keep the records of it, no.

2 Q: You kept no records of what he gave to you?

3 A: No. He said he had the ... he was keeping track of

4 whatever was coming ... his father did.

5 BY COURT REPORTER: His father you said?

6 A: Yeah. It was Bentley's ...

7 BY COURT REPORTER: Okay. I just need to

8 know what you said.

9 Q: His father kept the records of what he gave you?

10 A: Right ...

11 Q: But I mean, he ... there's two parties to a

12 transaction here. He's the giver of funds. You are

13 the receiver of funds. You didn't keep any kind of

14 records as to the monies he gave you?

15 A: No.

16 Q: I ask only because ... and listen, I ... it may be ...

17 I could be totally mistaken. I wasn't able to find

18 anything along the lines of bookkeeping, nothing that

19 indicated any transfer of funds, nothing that

20 indicated ...

21 BY MR. UPTON: I think he's answered that,

22 no, he didn't keep any ...

23 A: No. No.

24 BY MR. UPTON: ... records, so ... and I

25 think there's not any records in there that I'm

1 aware of.

2 A: No.

3 Q: Okay. If you'll look on page 11 of Bob Bentley's
4 deposition, he's indicated that he's invested with you
5 over half a million, which is double what you've just
6 testified. Would you say he's inaccurate?

7 A: I believe he's probably mentioning here he's got money
8 in patents and this and that. I would say monies
9 would be whatever he has in with a lot of other things
10 that he was doing with this deal. He's got a lot of
11 money with attorneys, patents and other things.

12 Q: But his response is to the question, how much money
13 have you invested with Dave Manos, and it was how much
14 has he given you.

15 A: I ... maybe he thinks it's pertaining to this deal,
16 but I never got a half a million dollars.

17 Q: Who was responsible for paying federal income tax ...
18 federal or state income taxes or taxes on that? Or
19 was it ...

20 A: I don't believe ...

21 Q: ... just entirely ... was that entirely loan funds?
22 Was that entirely loan?

23 A: I believe it was loans. I don't believe that you have
24 to pay taxes on a loan.

25 Q: No, no. No, you don't. Do you have any documents

1 between you of promissory notes, of promise to pay ...
2 any kind of documents indicating when payments have to
3 be made, or interest, rate of interest, or anything
4 like that?

5 A: We just have an understanding.

6 Q: It's just a verbal understanding that at some point...

7 A: Just an understanding.

8 Q: ... that you'll pay him back at some point?

9 A: Right.

10 Q: Mr. Bentley testified that he bought laboratory
11 equipment for you. Did he ... did Mr. Bentley buy
12 laboratory equipment for you?

13 A: He bought some supplies, yes.

14 Q: Do you know what laboratory equipment he bought?

15 A: I ... blenders, meters, probably some scales and
16 things like that.

17 Q: Of the half a million dollars you testified that Mr.
18 Bentley gave to you, how much of that would you say
19 was allocated ...

20 BY MR. UPTON: Object. He didn't testify
21 Bentley gave him a half million dollars.

22 A: No.

23 Q: Excuse me. Two hundred and fifty ...

24 BY MR. UPTON: Okay. All right.

25 Q: ... two ... yeah. That's my ...

1 A: Two fifty ...

2 BY MR. UPTON: Okay.

3 Q: ... that's my error. Yeah. Yeah. That's my error.

4 I'm sorry ...

5 BY MR. UPTON: Okay. That's fine.

6 Q: Of the ... excuse me. I'm sorry. Of the \$250,000.00

7 you indicated over this five year period from 2000 to

8 2005 that Bentley gave you, do you have any idea how

9 much of that went for personal expenses and how much

10 of that went for business?

11 A: I have not a breakdown on it.

12 Q: You have no breakdown?

13 A: No.

14 Q: Okay. If you'll look here in his deposition, Mr.

15 Bentley says that every dime he ever gave to you went

16 strictly to business and none of it to personal.

17 Would you say that's a correct or an incorrect

18 statement?

19 A: I don't think it says that. Okay. (READING TO

20 HIMSELF) ...

21 BY MR. UPTON: What it says is, "As far as

22 I look at it," meaning as far as Bentley looks

23 at ...

24 A: Yeah.

25 BY MR. UPTON: ... it, every dime was going

1 to the business.

2 Q: Well, it's a specific request to him to try to break
3 it down, so it's ... you wouldn't agree ... if one
4 were to say how much of this went to personal and how
5 much went to business, I think if a statement was made
6 that it all went to business, it's not necessarily
7 something you would agree with, is that correct?

8 A: Not necessarily.

9 Q: Did Mr. Bentley ever ask you how you were spending all
10 this money that he gave to you, did he ever, did he
11 ... he gave you \$250,000.00. Did he ever ask you, how
12 are you spending the money?

13 A: No.

14 Q: You testified earlier that there were stability issues
15 with the product from WOW. What was the name of that
16 product?

17 A: I believe they called it Nature's Secret. It wasn't
18 WOW's product at the time.

19 Q: Okay. What was the product that WOW developed, what
20 was its name?

21 A: RP20.

22 Q: Okay. Can you describe the stability problems that it
23 had?

24 A: You're asking two different questions here. You're
25 asking one for stability of a property they're using

1 in foods and one with a stability problem used with
2 metal. Metal really didn't have a problem too much
3 with stability after it was used in coating.

4 Q: I'm not talking about its application. I'm talking
5 about the product's ability to ... well, first of all,
6 are you indicating that RP20 was never, ever sold for
7 food purposes?

8 A: No.

9 Q: So if I were to show an invoice showing that Lumen
10 Foods at one time had paid for RP20 to use in its
11 products ...

12 A: That, that would be ... you couldn't use RP20 in
13 foods.

14 Q: You could not use RP20 in foods ...

15 A: You wouldn't, you wouldn't use it in foods.

16 Q: Why is that?

17 A: Different ... it was a different chemical formulation.

18 Q: But isn't everything in RP20 food grade?

19 A: It's food grade but not used for consumption.

20 Q: If everything in RP20 is food grade ... is everything
21 in RP20 on the grass list?

22 A: Yes.

23 Q: If it's on the grass list, it's generally regarded as
24 safe for inclusion in foods, and why would you never
25 use it in foods?

1 A: It doesn't work in food.

2 Q: Why doesn't it work in foods?

3 A: Because it's too thick, and it creates a film barrier.

4 It doesn't work well with foods. It's hard to dilute

5 down.

6 Q: It's too thick?

7 A: Well, it's used as a coating.

8 Q: If it's too thick, did its ...

9 A: When it, when it dries ...

10 Q: ... did its viscometer centipoise rating vary at all

11 from the product that PreservX developed?

12 A: They're different animals.

13 Q: Nonresponsive. You indicated it's too thick. Does

14 its thickness as measured by a viscometer and

15 centipoise, does it vary from the product SG150 that

16 PreservX developed?

17 A: For food? That's a different viscosity ...

18 Q: Irrespective of what its application is, your

19 testimony was that RP20 ... your test-- and correct me

20 if I'm wrong, I believe your testimony was just that

21 RP20 would never be used in food, because it was too

22 thick?

23 A: It was never used in food. Only potassium sorbate was

24 used in food, not the components combined with RP20.

25 Q: Okay. Well, let's back up. What ingredients were in

1 RP20?

2 A: You should know that. You said that that's your ...

3 Q: I'm asking you for the record to tell me what you

4 think the, what you think the ingredients are, because

5 there's ... we have paperwork to indicate that you're

6 saying you're the inventor of the WOW formula?

7 A: Right.

8 Q: Do you know what the ingredients in RP20 are?

9 A: Yes.

10 Q: What are they?

11 A: Carbowax 8000 ...

12 BY COURT REPORTER: Say it again?

13 A: Carbowax 8000, potassium sorbate.

14 Q: Is that it?

15 A: That's it.

16 Q: Would you ever use water?

17 A: Oh, and water, but that's, but that's your ... you

18 asked me the ingredients ... what ingredients.

19 Q: Were those the ingredients that are stated on the MSDS

20 sheet that WOW put out for RP20?

21 A: I would want to see the MSDS sheet that you would be

22 referring to.

23 Q: If WOW ever did have an MSDS sheet for RP20, what

24 ingredients would have been indicated ...

25 BY MR. UPTON: I object. He can't

1 speculate to that.

2 Q: Well, he's the managing director of WOW. How could he
3 not know?

4 BY MR. WRIGHT: He can answer if he knows.

5 A: I don't know. I don't know if they're new, or it's a
6 change. I'd like to see what the current MSDS sheets
7 say ...

8 Q: Okay. Are you aware then that one of the things that
9 an MSDS sheet does and it's required to do so by law
10 is that an MSDS sheet tells the end user what is in
11 the product ... the ingredients that are in the
12 product?

13 A: Also it can state proprietary formulation as well.

14 Q: Nonresponsive. Have you ever seen an MSDS sheet put
15 out by ... for RP20?

16 A: I have seen it with proprietary formulation ...
17 proprietary on it, yes.

18 Q: Did you ever give out an MSDS sheet in your sales
19 activity while representing WOW?

20 A: I don't believe we had hardly any sales. We only had
21 one sales, I think, and it was with Mid South. I
22 think Doc wrote up an MSDS sheet.

23 Q: You had one sale where WOW sold RP20 to Mid South?

24 A: Not Mid South. To Thermal Metals.

25 Q: Okay. Did WOW sell RP20 to Thermal Metals, or was it

1 just given to them for testing?

2 A: They sold it.

3 Q: Do you remember the price?

4 A: No.

5 Q: Was there ever an invoice generated?

6 A: You can ask Joe Winkiel, but I believe so.

7 Q: Did RP20 have spoilage problems?

8 A: Not on the metal sides.

9 Q: Irrespective of its application, did RP20 have

10 stability problems?

11 A: If it was held, what, in container, or while it was

12 sitting on a shelf wide open, which one?

13 Q: Irrespective of whether it's kept in a container or

14 it's kept wide open, what was the shelf life of RP20?

15 A: If it was sealed, I've still ... I've seen it still

16 good.

17 Q: Pardon?

18 A: I've seen it still ... if it was sealed properly, I've

19 seen it last for six months.

20 Q: So it had about a six month shelf life. How would you

21 account for the 30 day shelf life of Nature's Secret

22 and the stated six month shelf life of RP20?

23 A: A different chemical formula.

24 Q: What happened after six months to RP20?

25 A: It depends. If it was sitting out, you'd see a little

1 bit of a mold problem in the metal solution, but
2 believe it or not, it didn't affect the corrosion
3 protection.

4 Q: Do sorbates break down in any solution?

5 A: We found out that it did later.

6 Q: What do sorbates break down into?

7 A: I'm not a chemist. I would believe formaldehyde.

8 Q: Were you aware that Lumen Foods bought RP20 from WOW
9 under your instruction for use as a preservative in
10 its foods?

11 A: That was not RP20.

12 Q: Well, then, what did Lumen Foods buy from WOW?

13 A: They bought an emulsified ... what we were using as an
14 emulsifier back then, and soy lethicin was an
15 emulsifier, along with potassium sorbate ...
16 (INTERRUPTION - CELL PHONE) ...

17 OFF THE RECORD

18 Q: Okay. You indicated that what WOW shipped to Lumen
19 Foods was an emulsifier?

20 A: Well, basically it was a different formula ... when
21 was that shipped to you?

22 Q: 2002.

23 A: What year ... what month?

24 Q: It was early in 2002. I don't remember the month.

25 A: Was it for testing?

1 Q: No. It was for usage.

2 A: Did they get an invoice on it?

3 Q: No. Because we shipped it back. It all spoiled.

4 A: All right. So it wasn't sent with an invoice?

5 Q: It was sent with an invoice, but the product was

6 returned, because it spoiled very rapidly. I'd like

7 you to read this question and answer, because here Mr.

8 Bentley indicates that, in fact, the WOW product had

9 a spoilage problem. You tell me if you just simply

10 disagree with that one statement I asked, the question

11 and answer?

12 A: All right. It says no here.

13 Q: It's saying, do you deny this, and he's saying, no, I

14 do not deny it.

15 BY MR. UPTON: Deny what?

16 A: Can you read that?

17 BY MR. WRIGHT: Maybe the best way to

18 handle this is, why don't you read the question

19 and the response out loud ...

20 Q: Okay. I'll read the question and response verbatim.

21 It says, "Q: Are you denying that you and Greg Caton

22 had a conversation regarding the spoilage of the

23 product, and the product had to be returned for awhile

24 because it was spoiling, it itself was spoiling? A:

25 No."

1 BY MR. UPTON: Well, Bentley says that he
2 doesn't deny that you and Bentley had a
3 conversation. Right?

4 A: Right.

5 Q: If I say, if I say to you ...

6 BY MR. WRIGHT: Hold on, hold on, hold on.
7 That's the question, and the question as he
8 asked you was, do you agree with the statement.

9 BY MR. UPTON: Do you know if he and
10 Bentley had a conversation ...

11 Q: I'll, I'll rephrase, I'll rephrase it. If I ask you,
12 do you deny that you killed your wife, and you say,
13 no, would you ... and using ordinary common English,
14 would you agree that if you responded to that no,
15 you're admitting you killed your wife, just in terms
16 of the usage of the English language? And this is
17 pretty fundamental.

18 A: Go for what it is, if he said no, no. I have no clue
19 what he meant. I mean, he could ... Bentley could
20 have ... I mean, I don't know how ... you're saying
21 that between ... a conversation between me and you or
22 Bob?

23 Q: I'll read it again. Please listen carefully. "Q:
24 Are you denying that you" ... "you" here meaning
25 Robert Bentley, "and Greg Caton had a conversation

1 regarding the spoilage of the product, and the product
2 had to be returned for awhile because it was spoiling,
3 it itself was spoiling? A: No."
4 A: The conversation was between you and Bob you're
5 saying? Right or wrong?
6 BY MR. UPTON: Yes.
7 Q: Yes.
8 A: How do I know?
9 BY MR. UPTON: Well, if you don't know,
10 that's what ...
11 A: I don't know.
12 BY MR. UPTON: Do you know ...
13 Q: I'm simply asking if you ...
14 A: I don't know. I mean, I can't answer what Bob and you
15 guys talked about.
16 Q: Nonresponsive ...
17 BY MR. UPTON: No. I think he's correct,
18 Greg. The question ... I think the question you
19 want to ask him is, were you aware that the
20 product was spoiling itself, I think that's the
21 question you really want to ask this witness.
22 A: The thing is, I ... if I did, I didn't know about it,
23 or I don't recall.
24 Q: What is ...
25 BY MR. UPTON: And you don't recall ...

1 A: No. I don't recall.

2 BY MR. UPTON: ... whether, you don't

3 recall whether Bob Bentley told you about the

4 conversation?

5 A: No.

6 BY MR. UPTON: Okay. I think we ... I want

7 to make sure we're just clear on that point.

8 I'm sorry for butting in, but thanks.

9 Q: Do you know what the formula is that is currently

10 being used by Global Preservatives?

11 A: I ... how would I know? How would I know?

12 Q: Well, I'm asking for an answer ...

13 BY MR. UPTON: Well, there's nothing ...

14 A: No.

15 BY MR. UPTON: No.

16 Q: Do you have any idea what the difference is between

17 the formula that Global Preservatives is using and

18 RP20?

19 A: I presume they're not using Carbowax 8000.

20 Q: Other than that, you have no clue as to what Global

21 Preservatives is doing?

22 A: No.

23 Q: Are you familiar with the products that were developed

24 by PreservX?

25 A: Yeah, some of them.

1 Q: How many products did PreservX develop?
2 A: Under what time frame?
3 Q: In what time frame did PreservX exist?
4 A: I don't know if they still exist.
5 BY MR. UPTON: I don't know.
6 A: I just know that they developed a food preservative
7 and a rust inhibitor.
8 BY MR. WRIGHT: I'm going to enter just a
9 general ...
10 A: Yeah. That's ...
11 BY MR. WRIGHT: ... objection ... and
12 please let me state it. I'm not certain that
13 PreservX has done, owns, ever will own or has
14 done anything in the name of PreservX, so to the
15 ex-- because we do know that Mr. Bentley was
16 deposited, and Mr. Bentley claims to be the
17 president, chairman, whatever of PreservX and
18 testified at the time that it has nothing and
19 has had nothing, so ... I mean, I know you were
20 aware of that, because that's in the motion for
21 partial summary judgment. So ...
22 BY MR. UPTON: No. And I'm not sure we...
23 BY MR. WRIGHT: Yeah. I'm just ...
24 BY MR. UPTON: ... I don't know if PreservX
25 developed anything myself ...

1 BY MR. WRIGHT: Irrespective ...
2 A: Well, yeah.
3 BY MR. WRIGHT: ... of Mr. Caton's
4 questions, I don't want ...
5 BY MR. UPTON: Yeah.
6 BY MR. WRIGHT: ... I want to make sure
7 that there's no question that I'm acquiescing
8 that PreservX has, does, owns, will own or has
9 anything. If we ...
10 BY MR. UPTON: Yeah.
11 BY MR. WRIGHT: ... want to talk about what
12 may have been claimed to be, should be in
13 PreservX, that may be another issue, but I just
14 want to ...
15 BY MR. UPTON: Yeah, and we agree with
16 that.
17 BY MR. WRIGHT: Okay.
18 BY MR. UPTON: We're not saying ...
19 BY MR. WRIGHT: No. I was just ...
20 BY MR. UPTON: ... what PreservX had ...
21 BY MR. WRIGHT: No, no. I understand. I
22 just felt like I needed to say that just out
23 of...
24 BY MR. UPTON: Well ... yeah.
25 BY MR. WRIGHT: ... I know what we're

1 talking about, but I just want to make sure
2 there's no ...

3 BY MR. UPTON: Right.

4 BY MR. WRIGHT: ... misunderstanding about
5 what our position on that is. I don't think
6 PreservX has anything or has any rights to
7 anything.

8 BY MR. UPTON: Uh-huh.

9 BY MR. WRIGHT: You may or may not agree
10 with me down the road on that, but with that all
11 said, we can talk about it all everybody wants
12 to.

13 Q: While you worked with PreservX, did you develop
14 anything that was different than what you did when you
15 were with WOW?

16 BY MR. UPTON: What's the question, while
17 he worked at PreservX?

18 Q: Well, he worked with ...

19 BY MR. UPTON: Or worked with PreservX.
20 Okay ...

21 Q: Did you develop anything differently than what he
22 developed with WOW?

23 A: Yes.

24 Q: Can you describe what it is that you developed?

25 A: I developed a way to stabilize a concentrated form of

1 organics.

2 Q: Can you describe that, what exactly did you do?

3 A: I came in with a ... making a methylcellulose

4 concentrate first and then added a concentrated

5 organic formulation to it, so it could be diluted

6 down.

7 Q: Where did that formulation come from?

8 A: The powders came from ... we were working on the

9 powders ... you had some powders there that you were

10 using in your product.

11 Q: Do you know what I was using in my product?

12 A: At the time, you were using potassium sorbate, sodium

13 proponate and I think it was benzoate.

14 BY COURT REPORTER: Okay. Well, I ... say

15 them again. Say them again.

16 A: Potassium sorbate ...

17 BY COURT REPORTER: That one, I got.

18 A: ... sodium proponate ...

19 BY COURT REPORTER: That one ...

20 A: ... and benzoate.

21 Q: It was a formulation that I was already using in Lumen

22 Foods?

23 A: It was powders you were using at Lumen Foods.

24 Q: How does the formulation that I was using with Lumen

25 Foods differ from the chemicals that were used in the

1 PreservX formula?

2 A: All you were using back then was throwing the powders
3 into the water, mixing your formulation in with the
4 powders after they diluted, added your, added your
5 meats to it and then baked them.

6 Q: Okay. Nonresponsive. Please listen to the question.

7 A: Well, I was.

8 Q: What chemicals ... is there any difference in the
9 chemistry that was used between what Lumen Foods had
10 been using prior to your involvement with PreservX and
11 what PreservX actually used in its preservative
12 system?

13 A: Yes. It's a different chemistry.

14 Q: And what is the difference in chemistry?

15 A: Using the methylcellulose in the form first, then
16 forming a concentrated formula of the powders, and
17 then put them into the methylcellulose to form a
18 concentration, then diluting them down into the water.
19 It's a different method.

20 OFF THE RECORD (T2/S2)

21 Q: Okay. Do you know what products PreservX had?

22 A: Food preservatives.

23 Q: Do you know the names of any of PreservX's products?

24 A: You created an SG150, 175, SG200.

25 Q: Were there any other products besides those three?

1 A: So far, that's all I've seen, so far.

2 Q: Okay. What was the product that you had shipped to

3 George Alferis in Canada, was that any one of those

4 three?

5 A: That was an LCC1 formulation.

6 Q: What is LCC1 formulation?

7 A: It's a, it's a coating for ... it would be a coating

8 for a corrosion protection.

9 Q: What form does that take?

10 A: It takes ... it makes a barrier film on the metal.

11 Q: Specifically, is it a liquid, or is it a powder?

12 A: It goes from powder, and then you put ... add water to

13 make it a liquid.

14 Q: Did you ever have any instructions made for how to use

15 this LCC1?

16 A: I never gave them to George.

17 Q: Why didn't you give them to George?

18 A: I think at the time you said he didn't pay the bill,

19 so I did not give him the formulation.

20 Q: Are you aware that one of his justifications for not

21 paying the bill is that nobody would send him

22 instructions?

23 A: You were very mad at him, and you told him until he

24 paid the bill, not to do anything.

25 Q: Please repeat.

1 A: Until he paid his bill, I was not to do anything. I
2 wasn't going to give him the formula. You guys got in
3 a big fight.

4 Q: Who issued the order to have product sent to George
5 Alferis?

6 A: I told you he was interested in the order, and then
7 you communicated directly with George Alferis.

8 Q: I don't, I don't, I don't understand the answer.
9 Please repeat.

10 A: I wasn't running the company. I just introduced you
11 to George Alferis, and you handled it thereafter.
12 That's all I remember ...

13 Q: To the best, to the best ...

14 A: That's the best of my knowledge.

15 Q: Did you not submit the order for the product to be
16 shipped?

17 A: I never submitted any order.

18 Q: If you didn't submit any order, and you introduced me
19 to George, how would I know to ship him product?

20 A: By him ...

21 BY MR. UPTON: Well, I object. He doesn't
22 know you knew to ship the product.

23 A: Yeah. I didn't send you an order.

24 Q: What is your relationship with George Alferis?

25 A: He's just a friend.

1 Q: Did you not tell myself and Robert Bentley that he was
2 your godfather?

3 A: Oh, George, I respect him as a close friend and like
4 a godfather, but he's not legally my godfather.

5 Q: And did you ever refer to him as your godfather?

6 A: Oh, I've talked to people and said that he's like my
7 godfather.

8 Q: Being that he's like your godfather, would there be
9 any way that I would have known George Alferis other
10 than through your introduction?

11 A: Probably not.

12 Q: Are you saying you did not submit the order for LCC1
13 to be shipped to George Alferis?

14 A: I never sent an order to you to ship it. I just said
15 converse with George Alferis, and then you therefore
16 did that. You did the pricing and negotiations with
17 George.

18 Q: How did George Alferis know what to order?

19 BY MR. UPTON: I object. He can't
20 speculate as to what Mr. Alferis was thinking or
21 how he came to know what to order.

22 BY MR. WRIGHT: Well, unless he knows.

23 A: Yeah ...

24 Q: Yeah.

25 BY MR. WRIGHT: I mean, he could have told

1 him.

2 Q: Do you know the ingredients in SG150?

3 A: At the time that we were working on it, I believe
4 there was two ideas, but, yeah, I know some of them.

5 Q: What were the ingredients in it?

6 A: The first one was methylcelulose, potassium sorbate,
7 sodium benzoate ... sodium propanate, benzoate and a
8 little bit ... you tried using a little bit of ...
9 what was it, some acid, a food grade ... it was a food
10 grade acid. I used it for etching metals. I can't
11 recall the type of that, but that ... you used some
12 type of food grade acid.

13 Q: What as you recall were the ingredients in SG175?

14 A: It was a thicker formulation where you use a little
15 bit more methylcelulose to create a thicker one, a
16 thicker formulation. Instead of like a one percent,
17 I think you used a two percent methylcelulose in a
18 similar product.

19 Q: What were the ingredients in SG200?

20 A: That was mixing ... what was used, mixed a gallon of
21 methylcelulose and acid ... what was the name of that
22 acid? I can't remember the name of it. It was a food
23 grade acid. And sodium propanate, potassium sorbate,
24 and you combined all three into one by using that, put
25 it in the one gallon of the methylcelulose, adding the

1 gallon of the, of the potassium sorbate, sodium
2 benzoate and propionic acid and then adding the food
3 grade acid to it.

4 Q: What product that PreservX made would correspond to
5 the patent that you filed under PreservX?

6 A: The patent I filed under PreservX had uses and
7 combinations thereof of a tremendous ... of a
8 multitude of combinations, not just the ones that were
9 developed, but other ideas that we were coming up with
10 that could be, could be possibly used.

11 Q: So what you're testifying is you don't know of any
12 PreservX product that actually corresponded to the
13 PreservX patent?

14 A: I didn't say that. The patent identifies all those
15 terms that we discussed of organics that were used and
16 additional organics and possibilities, therefore, in
17 combination thereof.

18 OFF THE RECORD

19 Q: Is there a difference between the WOW ... between
20 WOW's RP20 and the PreservX product which purports to
21 be an improvement of it?

22 A: See, there's where there is a difference.

23 Q: What is the difference?

24 A: One uses ... I'll repeat before, Carbowax 8000, and
25 the other one uses a methylcellulose blend.

1 Q: Is that the only difference?

2 A: In that formula, yes.

3 Q: Okay. I simply have to proceed, because you're

4 contradicting your earlier testimony. Did not

5 PreservX employ the use of sodium propanate? You said

6 ... you testified earlier that it did.

7 A: Oh, it does. It's a different blend ... it's a

8 different method of formulation.

9 Q: What is that different method of formulation?

10 A: One uses Carbowax 8000 with potassium sorbate and H2O.

11 The other one uses a blend of methylcellulose,

12 potassium sorbate, sodium propanate, benzoate in a

13 concentrated formula, and you dilute it down for the

14 purposes of food preservative.

15 Q: Whose idea was it to add the sodium propanate?

16 A: That was in a ... powders that you had.

17 Q: Nonresponsive. Whose idea was it to add it?

18 A: It was in your formulation. In your powders you were

19 using.

20 Q: Whose idea was it to add it to the formula, and who is

21 the person, as opposed ... when you ask someone who

22 did something, that's ask-- requesting the person ...

23 A: It was your formula. You were the one ...

24 Q: Nonresponsive.

25 BY MR. UPTON: Okay.

1 Q: Who, as in a person, who was the person who
2 recommended adding this potassium ...

3 BY MR. UPTON: I object. I think he's
4 saying it was in there already. He doesn't know
5 who. Do you know who?

6 A: No. I don't know ... Greg or his, or his people over
7 there, they had ...

8 BY MR. UPTON: Okay.

9 A: ... these powders already.

10 Q: Okay. You don't know whose idea it was to add sodium
11 propanate, that's your response?

12 A: It was in your powdered formulation.

13 Q: Okay. Whose idea was it to add the sodium benzoate?

14 A: The same answer. It was in your formulation. In your
15 powders combination in the beginning that you used in
16 your ...

17 Q: Are you aware that PreservX and Bob Bentley filed a
18 patent?

19 A: PreservX and Bob Bentley?

20 Q: Earlier in your testimony, you referred to the WOW
21 patent as the old patent, correct, it's just a term
22 that you used, correct ...

23 A: Old patent.

24 Q: Okay. What name do you want to give to the patent
25 that was filed by Alston and Bird by Bob ... initially

1 by myself and then later by Bob Bentley, what name ...

2 A: The same, new patent.

3 Q: We'll call that new patent, right?

4 BY COURT REPORTER: Alston and who before

5 we get too far ...

6 BY MR. WRIGHT: B-i-r-d, Bird.

7 Q: Like a bird that flies.

8 BY COURT REPORTER: Okay.

9 Q: Are you aware that patent was denied by the U.S.

10 Patent Office?

11 A: I have no clue about the patent, what action is it in.

12 My patent attorney would know.

13 Q: Mr. Manos, you do know you are a co-plaintiff in this

14 case ... maybe we need to go ... perhaps go back to

15 basics. You know that you are the co-plaintiff in

16 this case, correct?

17 A: Correct.

18 Q: In just very simple terms, a plaintiff means you're

19 claiming to be an aggrieved party. Can you state in

20 very simply terms how it is you've been aggrieved,

21 what ... why you're ... why you filed the lawsuit?

22 A: Why I filed the lawsuit?

23 Q: Yes. Why are you a plaintiff in this case, and how,

24 how, how have your rights been violated or your

25 property been ...

1 BY MR. UPTON: Well, actually, he's not a
2 plaintiff. He didn't file the lawsuit. He came
3 in as a defendant ...
4 A: Right.
5 BY MR. UPTON: ... and ...
6 BY MR. WRIGHT: Well, he's probably
7 technically a plaintiff in reconvension ...
8 BY MR. UPTON: Well, he is, he's a
9 plaintiff in reconvension.
10 BY MR. WRIGHT: Okay. Well ...
11 BY MR. UPTON: And basically from a legal
12 theory, he's just asking for some declaratory
13 judgment as to who has rights in the patent ...
14 the old patent and the current pending patent
15 applications.
16 Q: Do you feel that you should be able to define what
17 your intellectual property is?
18 BY MR. UPTON: I don't know. That's
19 ambiguous, or I'm not sure what the question
20 is...
21 BY MR. WRIGHT: Well, if he can answer it,
22 answer it.
23 BY MR. UPTON: Okay. Repeat that.
24 Q: Okay. I'm going to pick an analogy. Let's ...
25 BY MR. WRIGHT: Why don't you just re-ask

1 the question first, and let's see if maybe he'll
2 answer it.

3 Q: Okay. How do you feel your intellectual property have
4 been violated?

5 A: I believe that I contributed and helped put this
6 project together where we weren't compensated for it.

7 Q: Can you define "project?"

8 A: The food preservative or the corrosion protection, but
9 I know the food product, I contributed a lot to the
10 formulation of it.

11 Q: How does that contribution differ from the old patent
12 that you assigned to WOW?

13 A: It's a different chemical family.

14 Q: Okay. Did you ever use ... did you ever employ
15 propionic acid or any of its salts prior to coming to
16 Lumen Foods?

17 A: No.

18 Q: Okay. Did you ever use benzoic acid or any of its
19 salts prior to coming to Lumen Foods?

20 A: No.

21 Q: Did you ever tell Bob Bentley what the formula was or
22 what ingredients were used in the Gold Preservative's
23 formula?

24 A: I don't recall.

25 Q: Okay. Have you ever played professional football?

1 A: No.

2 Q: Have you ever ... so you've never played for the
3 Cincinnati Bengals?

4 A: No.

5 Q: If anyone claimed that you had indicated you had,
6 would they be mistaken?

7 A: I don't know what that means. I have not played
8 professional football.

9 Q: Okay. Did your work for WOW ever result in any other
10 product besides RP20?

11 A: Well, there was the food side, but RP20 was ... became
12 the main focus.

13 Q: Okay. Okay. I'm not sure I understand the answer.
14 The question was, have you ever ... did you create any
15 products for WOW other than RP20, and you said there
16 ... so there was something on the food side you did...

17 A: In the very beginning, we created some food
18 preservatives that were being sold, and then we
19 focused mostly on the corrosion protection.

20 Q: Okay. I'm confused, because earlier you testified
21 that the only product WOW ever sold was in the very
22 beginning when it was to Mid South, and then it was
23 for the ... on the metal side. Now, you're testifying
24 that WOW did sell some product on the food side?

25 A: They ... the Bendiner Group sold it on the food side.

1 Q: I didn't mean ... I didn't say anything about the
2 Bendiner Group. Let's just focus on WOW. Let's start
3 over. You testified earlier that the only product
4 that WOW ever sold was to Mid South, and it was on the
5 metal side?

6 A: No. Food side.

7 Q: Oh, I beg your pardon. You're right. You did say it
8 was a dog food company, right?

9 A: Correct.

10 Q: Why did they stop purchasing the product?

11 A: To my knowledge ... you should ask Joe, but I believe
12 they went and worked out a deal with Mr. Bendiner,
13 because I think Joe was asking for too much money.
14 This is what I think.

15 Q: Okay. You testified earlier there were four
16 directors, four ... was it officers in WOW?

17 A: Operating managers.

18 Q: Operating managers. So the four of you who were
19 operating managers never had a meeting during which
20 there was a discussion how it was that you lost your
21 one and only customer?

22 A: All I can remember is Joe was negotiating with Mid
23 South, and then there was no more orders. Assuming
24 they went somewhere else.

25 Q: At one point, Mr. Bentley testified that the only

1 reason that WOW did not generate any sales is that
2 they wanted you and Bentley out of the picture. Is
3 that correct, that WOW wasn't generating sales because
4 they wanted you and Bentley out of the picture?
5 A: I don't know. I have no clue about that. I don't
6 know if Bentley was staying there ...
7 Q: All right. Well, we'll find it. But if he did say
8 that, you wouldn't agree with it? I'm sorry. Let me
9 pull this up.
10 BY MR. UPTON: I don't think he said he
11 didn't agree with it. He said he didn't know
12 anything about that.
13 A: Yeah.
14 Q: Well, I'm simply asking, if someone makes a statement,
15 if he agrees, or he disagrees, and really it's a yes
16 or no question. To the best of your knowledge, WOW
17 never tried not to get sales, because they wanted to
18 get you and Bob out of the picture?
19 A: I think they wanted to get sales.
20 Q: Pardon?
21 A: I believe they would want to get sales.
22 Q: Are you currently manufacturing any preservatives?
23 A: No.
24 Q: Metal or food side?
25 A: None.

1 Q: Are you planning to?

2 A: Not yet.

3 Q: Well, under what conditions would you manufacture

4 preservatives?

5 A: Depending on how this lawsuit goes.

6 Q: So it is strictly on the basis of the outcome of this

7 lawsuit that will determine whether or not you

8 manufacture preservatives?

9 A: Or even want to get into the field.

10 Q: Mr. Bentley testified that nobody will work with you

11 until you get a clear patent. Would you agree with

12 that statement or disagree with it?

13 A: I believe Bob had a lot of problems because of the

14 pending lawsuit.

15 Q: What problems did he have that he told you about?

16 A: Basically no one would do any business with him until

17 the pending lawsuit was settled. That's what he said.

18 Q: Your response infers that he was out generating sales.

19 Were you out ever generating any sales?

20 A: No.

21 Q: So any sales that would have come out of your

22 interaction with Bob Bentley would have been his

23 efforts, not yours?

24 A: On this part, yes.

25 Q: Did any person or any company ever tell you, I will

1 not do business with you unless you have a clear
2 patent?

3 A: Bob was involved in that. I was not involved and
4 privy to certain conversations ...

5 Q: So no one has ever made a comment like that to you?

6 A: No. I don't remember ... I don't really recall.

7 Q: To the best of your knowledge, did you or Bob Bentley
8 ever invest any money into PreservX?

9 A: I have not, I have not put any money in PreservX.

10 Q: Do you know what percentage of PreservX was allocated
11 to yourself and Mr. Bentley? Do you remember offhand?

12 A: I got zero. I think Bob had 66 percent.

13 Q: Do you have an opinion as to what Mr. Bentley
14 contributed to get 66 percent of the company?

15 A: He contributed, I believe in the letter of intent was
16 the monies and trying to keep me afloat while we were
17 developing these processes.

18 Q: Do you have any idea what Herbológics, Ltd., invested
19 in PreservX?

20 A: No, I don't.

21 Q: Okay. I need to pull out an invoice. Do you know
22 what APG Appraisals is in Ottawa, Ontario?

23 A: That's, I believe George's company.

24 Q: Okay. I'm going to ask you to look at this check.
25 It's check number 0081.

1 A: Okay.

2 Q: That check was issued as a partial payment by George

3 Alferis to his outstanding invoice in the amount of

4 \$5,838.85.

5 A: Okay.

6 Q: Do you know who instructed George Alferis to put a

7 stop payment on that check?

8 A: No, I don't.

9 Q: You have no idea?

10 A: (No verbal response.)

11 BY COURT REPORTER: You have to answer out

12 loud.

13 A: No.

14 Q: Okay. Did you ever share the formula of LCC1 to

15 anyone else?

16 A: I don't believe so. I don't recall.

17 Q: Do you know why the bill to George Alferis was never

18 paid?

19 A: No.

20 Q: What is Carbowax used for?

21 A: Film barrier.

22 Q: How does it differ from METHOCEL?

23 A: Methylcellulose is ... they use it in formulation with

24 the new technology or new patent to stabilize the

25 organics for that formulation.

1 Q: Is there any difference between your use of either
2 Carbowax or METHOCEL and the methodologies that are
3 given out by Dow Chemical technicians for the METHOCEL
4 division?

5 A: Well, when you look at it, they just put Carbowax and
6 water, and I tried that, and it corroded the metal
7 real bad, so when I took the Carbowax and mixed it and
8 formulated with the potassium sorbate in certain
9 percentages, I realized that it stopped corrosion, and
10 it created a barrier ...

11 Q: Nonresponsive, nonresponsive. I'll ask the question
12 again. It is a yes or no question. Is there any
13 difference that you know between your use, the manner
14 in which you use METHOCEL ... well, let's take the ...
15 is there any difference between the way you use
16 METHOCEL and water from the way that a Dow Chemical
17 technician in the METHOCEL division would recommend?

18 BY MR. UPTON: I would comment, do you know
19 what a Dow Chemical technician would do?

20 A: No.

21 BY MR. UPTON: Okay.

22 Q: Do you ever consult with Dow technicians on the use of
23 their products?

24 A: Only ... well, it was basically Union Carbide. It
25 wasn't the Dow people. Then later I talked to the Dow

1 people. But they do not use other combinations
2 thereof with their methylcellulose. They just sell the
3 byproduct itself ...

4 Q: Okay. Nonresponsive. I'll ask it again. Did you
5 ever consult with technicians for any of the
6 manufacturers, be it Union Carbide, Dow, Dupont, of
7 any of the METHOCEL that you experimented with or
8 purchased on use of their product?

9 A: All I discussed with them ...

10 BY MR. UPTON: Just yes or no.

11 A: No ... yes. I discussed some stuff with them, yes.

12 Q: Other than taking METHOCEL and putting it into water,
13 is there anything that you, that you ... is there
14 anything different about your particular use of
15 METHOCEL other than the fact that you take a powder,
16 and you put it in water and stir it?

17 BY MR. UPTON: Well, again, I would object.
18 You're assuming different from what? Just
19 because he consulted ...

20 Q: No. Difference, difference implies that there's two
21 comparatives. There's no comparatives here. Other
22 than taking METHOCEL ... which always comes in a
23 powder form, would you agree? All the METHOCEL you've
24 worked with so far has come in a powder, is that
25 correct? You would have never been shipped a METHOCEL

1 that came in a liquid, everything you've received was
2 powder, correct?

3 A: METHOCEL, correct.

4 Q: Correct. We're just going to focus on METHOCEL.
5 You've always received METHOCEL as a powder. Besides
6 taking that METHOCEL and putting it into water,
7 irrespective of its temperature, and stirring it, is
8 there anything different about your employment of
9 METHOCEL than would be recommended by the manufacturer
10 under normal generally manufactured usage?

11 A: Yes.

12 Q: And what is that difference?

13 A: It was a difference, and it's by taking organics that
14 you ... if you mixed organics without the METHOCEL ...

15 Q: I didn't ask what else ...

16 A: Let me ...

17 Q: ... other components you added. I said, as it
18 pertains to the actual process, as opposed to chemical
19 compositions, the process itself, other than adding
20 METHOCEL to water and stirring it, is there anything
21 else that you've done different for METHOCEL that's
22 new or original that the manufacturer would not have
23 thought to?

24 A: I don't believe they would have thought to put a
25 concentrate of organics into it and then stirred in to

1 dilute it down. Yes, I believe there's a difference.
2 They just sell the powder ...
3 Q: They wouldn't think to dilute it down?
4 A: It doesn't say anywhere in any methylcellulose.
5 Q: Would you, would you agree ... I know you've testified
6 you're not a chemist. Would you agree that when you
7 add water to something, that by definition you dilute
8 it?
9 A: In certain areas, you do, yes.
10 BY MR. UPTON: Mr. Caton, could I ask you
11 what the relevance of this line of questioning
12 is?
13 Q: The line of relevancy is, he's ... nobody can figure
14 out what he's claiming is ...
15 BY MR. WRIGHT: I'll tell you what I think
16 it is.
17 BY MR. UPTON: Okay.
18 BY MR. WRIGHT: That he's claiming to be an
19 inventor.
20 Q: But nobody has figured out what he's invented ...
21 BY MR. UPTON:.. Isn't that the purview of
22 the patent office?
23 BY MR. WRIGHT: No.
24 Q: It's the core of the ... it's the crux of the lawsuit.
25 BY MR. UPTON: Who do you think decides

1 who's an inventor for the patent office's
2 purpose?

3 BY MR. WRIGHT: Whoever decides the
4 ownership interest may have to decide
5 inventorship. We've already had a hearing on
6 this, and the judge has already said he's going
7 to get into this. That was last year.

8 BY MR. UPTON: Okay.

9 BY MR. WRIGHT: I mean, this issue has
10 already been raised in front of the judge last
11 October before we had the other trial date, and
12 the judge determined that since he can decide
13 ownership, and ownership arises from
14 inventorship, that he can decide it.

15 BY MR. UPTON: Okay.

16 BY MR. WRIGHT: I mean, that's a hearing we
17 had last October, so. I forget the exact nature
18 of the exception and what ... it was one of
19 those many things, and it was O'Dowd's no cause
20 of action thing that he disposed of that that
21 whole thing came up.

22 Q: Is Carbowax food grade to the best of your knowledge?

23 A: I believe now, it is. It is.

24 Q: If it's food grade now, is there any reason you
25 couldn't use it to make preservative for foods?

1 A: It wouldn't be as good.

2 Q: Why wouldn't it be as good?

3 A: Well, when ... the Carbowax, when you put it into

4 something, it will get hard. And if it hits oxygen or

5 you put it into things, and you bake it, it will

6 create a different type of composition.

7 Q: "Hard" as in a solid, or "hard" as in more viscous?

8 A: More harder as in a solid. It forms a solid barrier.

9 Q: You are aware that we shipped to George Alferis

10 Carbowax, correct?

11 A: Yes.

12 Q: And Carbowax is central to LCC1, correct, it's part of

13 the formula?

14 A: Right.

15 Q: But you're testifying that ... you testified you did

16 not tell George, you did not tell George Alferis to

17 place an order with us?

18 A: I said that previously.

19 Q: Have you ever had any types of business dealing with

20 George Alferis?

21 A: No.

22 Q: So he's just strictly a guy you call your godfather,

23 and you've never done ...

24 A: I've, I've known George for a long time.

25 Q: But never had any business dealings with him?

1 A: No.

2 Q: Who determined what inventory PreservX ordered?

3 A: You did.

4 Q: Okay.

5 A: I believe.

6 Q: Who determined the finished formulas that would be
7 used to sell in commerce? Do you know?

8 A: No.

9 Q: Are you aware of any bogus checks that were written to
10 Austin and Bird, to the patent ... or to the patent
11 attorney?

12 A: I have no knowledge.

13 Q: Okay. When you left WOW to work with PreservX, what
14 were your contractual obligations to WOW, do you know?

15 A: I had no contract with WOW.

16 Q: You had no contractual obligations at all to them?

17 A: I had no contracts with WOW.

18 Q: No. That's not what I asked. Did you have any ...
19 you had no contractual obligations at all?

20 A: Not at that time. They told me to go find a job.

21 Q: Is it your opinion that the PreservX patent made the
22 old patent, the WOW patent, obsolete?

23 A: No.

24 Q: Is it an improvement upon the WOW patent?

25 A: I would believe that it was using WOW ... some of

1 WOW's older technology, combining it with the newer
2 technology so that this technology would protect both
3 companies.

4 Q: You testified earlier that the PreservX patent had the
5 addition of these chemicals that you founded at Lumen
6 Foods. Isn't the addition of these new chemicals the
7 only difference between the WOW patent and the
8 PreservX patent?

9 A: This is correct.

10 Q: Do you know why the U.S. Patent Office denied the
11 PreservX patent?

12 A: I didn't know they denied it.

13 Q: Okay.

14 BY MR. UPTON: Mike, have they denied it?
15 I wasn't aware of that.

16 BY MR. WRIGHT: Yeah. October ... what's
17 the date on it? October 15, 2006. They said it
18 was double patented.

19 BY MR. UPTON: Okay.

20 OFF THE RECORD (T3/S1)

21 Q: Did you ever share with Robert Bentley what the
22 PreservX formula was?

23 A: I said ... I think I answered that before, and I said
24 no. He ... I don't think he knows how to make it.

25 Q: Did he ever ask?

1 A: I don't know. I ... he was asking me about it, but I
2 just said to him I ... or maybe I gave him a ... I
3 wrote a list on what was in it, yes, I did. I gave
4 him a list of what was in it ...

5 Q: Did, did he ever know how to make the WOW patent ...
6 or the WOW formula ... the RP20, did he ever know how
7 to make RP20?

8 A: Not really.

9 Q: Did he ever ask you what was in it?

10 A: That's one thing he never did.

11 Q: Did it in any way strike you as odd that a man would
12 invest a quarter of a million dollars into something
13 and not ask what one ingredient ... what was in a one
14 ingredient formula? Or, excuse me, a two ingredient
15 formula.

16 A: Just Bob never asked.

17 Q: Do you know whether or not Greg Caton knows how to
18 make the formula?

19 A: I have no clue.

20 Q: Okay. Do you know whether or not Paula Grant knows
21 how to make the formula?

22 A: I have no clue.

23 Q: Do you know how to make the PreservX formula?

24 A: New or old? I mean, it would depend what are you
25 talking about. I ...

1 Q: Well ...

2 A: ... know how to make the first one, but if you have

3 improvements, I have not made the new ones.

4 Q: You had testified that you know how to make RP20?

5 A: Yeah.

6 Q: You would ... would you testify that you know how to

7 make SG150?

8 A: Or a variation. I don't know exactly what you call

9 ... or what you put in the SG150, if you changed the

10 formula. I just know based off whatever I did before,

11 when using methylcellulose, potassium sorbate and

12 sodium propanate and benzoate, I can create a

13 variation of that.

14 Q: You testified earlier that the SG150 employed an

15 etching acid. Could that have been called H30?

16 A: I believe you tried to use an H30 or whatever that

17 was, hydro-- or ... in it, but that wasn't food grade.

18 Q: What did PreservX make that utilized your intellectual

19 property?

20 A: What they used, the method of formulation.

21 Q: Which products did they employ that in?

22 A: What they ...

23 Q: Earlier you testified that you're aware of an SG150,

24 an SG175 and an SG200. In which of those products was

25 your intellectual property employed?

1 A: 150 and 175, I believe. John Houston was putting
2 together a combination of using three different
3 gallons of whatever to try to create an etching
4 material to take off rust.

5 Q: Earlier you indicated that SG150 used etching acid?

6 A: Not ... no, no, no. It used ... it's a food grade
7 acid in the beginning. Basically it's a pH adjuster.

8 Q: What is the pH adjuster that was used in SG150?

9 A: I thought it was like a ... I forget the name of the
10 food grade acid offhand, but it was a liquid food
11 grade acid that you sent me, and I used a little bit
12 to bring it down from like a 9.85, 9 pH down to around
13 7.5. I forgot the name of it.

14 Q: Did you formulate these three formulas ... the SG150,
15 the SG175 and the SG200, of those three formulas,
16 which ones did you formulate?

17 A: I formulated the vari-- I don't know exactly what
18 you're calling the SG150 now, but back then, I did ...
19 created the method of formulation for what you call
20 SG150 and the SG175.

21 Q: How do you know?

22 A: Well, if it's a similar product that was in the ...
23 you know, that you disclosed before in the website,
24 then that's the ones that I helped with.

25 Q: Well, if you don't know the formula, and you don't

1 know how it was made ...

2 A: I just, I just know that the powders were used.

3 Q: Okay. All right. Are you aware that Paula Grant has

4 filed a preservation patent?

5 A: No. Not at all.

6 Q: To the best of your knowledge, she hasn't?

7 A: I don't have a clue.

8 Q: On page 44 of Robert ... I'm going to read something

9 from page 44 of Mr. Bentley's deposition. He says ...

10 "Q: But Mr. ... your testimony is Paula Grant taught

11 me how ... taught Greg Caton how to use these

12 chemicals? A: No. That's his testimony, Mr.

13 Bentley." And then Greg Caton asked, "Paul's

14 testimony?" He answers, "Exactly right, and my

15 attorney's testimony that Greg Caton had no idea how

16 to make this when it went into the patent." Do you

17 agree or disagree with that?

18 A: I have no clue what you're talking about.

19 Q: Well ...

20 A: I wasn't privy to any of that conversation.

21 Q: If you did not formulate SG150, SG175 and SG200 but

22 you feel that it made ... used intellectual property

23 that belongs to you, do you know who did formulate it?

24 A: I know John Houston, I taught how to use the

25 methylcellulose to stabilize the organics ...

1 Q: Okay. I'll try it again. This really is a yes or no
2 question. Do you know who formulated SG150, SG175 and
3 SG200?

4 A: In the beginning, I formulated the 150 ... or what you
5 call 150 or a variation of the 150 and the 175.

6 Q: In the beginning, you formulated SG150?

7 A: I gave ... I was there on October 19th, yes. That
8 what you call 150, I created a variation of the 150 in
9 the very beginning by a method ...

10 Q: You created the, you created the original 1-- SG150,
11 or you created a variation?

12 A: Variation, whatever. If you changed it, you changed
13 it, but I created the method.

14 Q: Forget any changes. The original SG150, whatever that
15 embodiment was, who created that SG150?

16 A: I did. I gave, I gave the method of formulation to
17 John Houston, and then he may have put a minor tweak
18 to it, but I came up with the method of how to mix
19 that formulation with those organics.

20 Q: What was the method of mixing it?

21 A: Using the methylcellulose first, creating a
22 concentrated formulation of the organics, so they
23 could be diluted down to be used in a food process.

24 Q: Earlier you testified that you employed the formula
25 that Lumen Foods already had ... without the METHOCEL,

1 of course, for the sorbate, benzoate and propanates?

2 A: Right.

3 Q: Since the manner of making the METHOCEL was the same

4 for both PreservX as it was for the old patent ... oh,

5 it's not?

6 A: Uh-uh.

7 BY COURT REPORTER: You have to answer yes

8 or no ...

9 Q: You mixed the ...

10 A: No.

11 Q: You mixed the METHOCEL in a different way than you do

12 with RP20?

13 A: I didn't use methylcellulose for coatings.

14 Q: What's proprietary about SG150?

15 A: I would believe it's the method of formulation.

16 Q: What is that method of formulation?

17 A: Without the methylcellulose mixed first, if you just

18 threw three organics in there, and you tried to use

19 that that way, which was the old way, it would not be

20 stable when you bake it.

21 Q: If I were to pick up a telephone, and I were to call

22 Dow, speak to the technical people ...

23 A: Right.

24 Q: ... the people who make the FM4, their brand of

25 methylcellulose, and they were to tell me, take this

1 product, stick it in water and stir it ...

2 A: Uh-huh.

3 Q: ... that's how you make ... put METHOCEL in solution,
4 and then I were to add the three chemicals that had
5 been used since ... from ... by Lumen Foods since
6 1986, would I have SG150?

7 A: If it was in a concentrated form, and you diluted it
8 down, yes, you would be using the variation of the
9 150, yes.

10 Q: And you ... it would make ... you dilute something
11 down when you add water?

12 A: When you make a concentrated formula, then you can
13 dilute it down, because preservatives are normally
14 sold in powders ...

15 Q: Okay. We're going to talk ... we're going to, we're
16 going to define a word in English. In English, the
17 word "dilute" or in the noun ... in the verbal form
18 and the noun "dilution," how would you define the word
19 "dilute," what does "dilute" mean to you?

20 A: Well, you can ... what dilution is, is when you dilute
21 a product from its main form ...

22 Q: You're using ... you're creating, you're creating a
23 tautological loop ...

24 BY MR. UPTON: Let him answer the question
25 and then follow-up.

1 A: When you dilute something, like when we make a
2 concentration of something, when you put a
3 concentration, like you make a concentration, and you
4 have another formulation of water, what you do is you
5 dilute it into the water to make it from concentrate
6 and make the water a preservative, then you could add
7 your other ingredients to it. That's what we did.

8 Q: Let's try a different approach. If I picked up
9 Webster's Dictionary right now, and I look ... and I
10 looked up ... if I looked up "dilute," what do you
11 think it would say?

12 A: I have no clue.

13 Q: Okay. Do you remember yourself and Mr. Bentley and
14 Greg Caton signing a letter of intent? I should be
15 able to dig that up here. I want to ... I want you to
16 read paragraph 4(A) of the letter of intent, and it
17 says ... well, I'll just read it, and you tell me if
18 I'm misreading it here. You can read it with me. It
19 says, "Investors ... inventors shall" ... and just
20 finish the sentence?

21 A: It says, "Inventors shall work to resolve conflict of
22 interest while continuing to research application for
23 technology and build on the company's emerging core
24 technology."

25 Q: Okay. Earlier I asked you if you had any contractual

1 obligations to WOW, and you said, no, you didn't. Why
2 would you ... well, first of all, do you deny that you
3 signed the agreement? Did you sign this letter of
4 intent?

5 A: Yes.

6 Q: Okay. Why would you sign a letter of intent saying
7 that you would work to resolve conflicts of interest
8 if you have no contractual obligations?

9 A: Well, what I did is I had permission with Mark
10 Westbrook after I came back from your meeting on
11 October whatever it was, 16th or 19th, and explained
12 to him where we were at, and he really wanted ... I
13 said, I don't know what's going to come out of all of
14 this, but, I said, I signed an intent to work forward
15 with you on this, and he said, that's fine.

16 Q: Why would you need to seek out permission to Mark
17 Westbrook for anything if you don't have any existing
18 obligations?

19 A: Because at the time that we signed that, I believe WOW
20 had a rights to the RP20 product, and that I wanted to
21 make sure that he was aware of my relationship with
22 you.

23 Q: Do you know why the name of Greg Caton was on the
24 provisional patent as a co-inventor and then was
25 abruptly taken off?

1 A: I believe at the time you wanted to be put on the
2 provisional patent, because you were paying for the
3 patent, and we agreed to it. I thought we were all on
4 the same page.

5 Q: So you're not aware of any correspondence that Greg
6 Caton would have sent out objecting to, to the name
7 being taken off?

8 A: I don't ... I didn't see any of that.

9 Q: I'm going to draw your attention to page 52 of Robert
10 Bentley's. "Q: Well, what did Manos say he was going
11 to do? A: He was going, he was going ... he was an
12 inventor, and he had a product that was way above
13 anything else that anybody has ever invented as far as
14 food preservatives, metal preservatives, and he did
15 that. That's what I was paying him to do." Do you
16 agree or disagree with his ... with the statement?

17 A: That anyone has ever invented ... that's very nice.
18 I just think he's saying here that everybody seemed
19 pleased with what we were ... with what I did. That's
20 what I'm thinking in here, because everybody was
21 pleased with it.

22 Q: Are you aware that Gary Herman ... is it Harrison or
23 Herman?

24 BY MR. UPTON: It's Harrison.

25 Q: Excuse me. Gary Harrison, are you aware that he uses

1 the ... a variation of the Bud Bendiner patent, are
2 you aware of that?

3 A: No.

4 Q: You're not aware of that?

5 A: No.

6 Q: Do you have any knowledge at all about what Gary
7 Harrison's embodiment is, his manufacturing?

8 A: I think he used ... well, you've seen that before when
9 we were down there, but I ... when we were down there,
10 we all talked about it, and I think some ... a beeswax
11 or something, and that's, that's what I've heard, used
12 beeswax ...

13 Q: That's correct. That's in the public domain. He has
14 that on his MSDS ...

15 A: Well ... no.

16 Q: Are you aware he sells that as a ... are you aware
17 that he sells that as a, as a rust inhibitor?

18 A: I, I ... Bob told me that he was selling it as a rust
19 inhibitor too.

20 Q: Do you have any reason to believe that your rust
21 inhibitor is superior to his?

22 A: I have no clue how his works. I've never tested it.

23 Q: Okay. Did you have a laboratory in Pinehurst?

24 A: At the Bendiner Group, we had.

25 Q: Did WOW have a laboratory?

1 A: You wouldn't call it a laboratory. We ... basically
2 we had a trailer.

3 Q: Did or did it not have a laboratory?

4 A: Well, you could work out and do formulations, but it
5 wasn't a ... would you call it a high tech laboratory.

6 Q: Well, what kind of laboratory was it?

7 A: Oh, you could mix formulations and do work there. But
8 you couldn't do any testing.

9 Q: Okay. Who determined what percentage ... what was the
10 relative percentages that would be used between the
11 sorbates, propanates and benzoates in the PreservX
12 product?

13 A: You had a per poundage that you ... we worked on, and
14 I think we tweaked it a few times, but I think that
15 when it came down to the end using it, I think it was
16 percentages of ... I can't remember ... recall
17 exactly, but we came up with a better ... this much
18 potassium sorbate, this much benzoate ... sodium
19 propanate and this much benzoate combined would be the
20 best percentages. And that was the, and that was
21 the...

22 Q: Do you know how those percentages were determined?

23 A: We tested a few different variations, and like John
24 and I were talking about it, we ... it was just
25 tweaking a couple ... minor the chemicals or the

1 powders that would work out the best.

2 Q: If you were, if you were to tweak it and deviate from

3 the percentages that Lumen Foods uses, on what basis

4 would you make a decision to vary from it?

5 A: Basically the thing was, it wasn't the powders

6 combined that was the main situation. It was how to

7 stabilize that product when we bake it ... when used

8 as a preservative.

9 Q: So the product was a baked product?

10 A: You used it in baking.

11 Q: I'm not talking about the usage by the end user. I'm

12 talking about actually making the SG150 and so forth,

13 the PreservX product, or any product that employs the

14 patent that you filed that's just been rejected by the

15 U.S. Patent Office?

16 A: The key is, when you read the patent application ...

17 Q: Uh-huh.

18 A: ... it just says, stabilizing the organics. A method

19 for stabilizing organics. Not what organic, if we

20 have a multitude of organics. It's a method to

21 stabilize them.

22 Q: If I ... if Greg Caton had never met you, and he was

23 using these three chemicals as has been used since

24 1986, and he were to call Dow and use METHOCEL in his

25 formula, would that be a violation of your patent?

1 A: If you use ... the thing about it is if you just added
2 the METHOCEL with powders right now and mixed them all
3 together and put the powders together ... throw the
4 powder and METHOCEL and mix it all together, you
5 wouldn't have anything.

6 Q: If you did, would it be a violation of your patent?

7 A: I don't know. I can't answer that question. I'm not
8 a patent attorney.

9 Q: No. I respect that you're not a patent attorney, and
10 neither am I. Neither of us are even attorneys. Do
11 you have any sense of what would or would not be a
12 violation of your intellectual property?

13 A: That would be a question for a patent attorney. I
14 have no clue of what they would put there as
15 protection.

16 Q: Have you ever met Gary Harrison? Har-- yeah,
17 Harrison, Gary Harrison.

18 A: Yes.

19 Q: What ... did you ever propose doing business with him?

20 A: I never proposed doing business with him.

21 Q: Was your interaction with Gary Harrison personal ...
22 social ... personal or business?

23 A: To me, it was business.

24 Q: Requested from whose side, yours or his?

25 A: Bob.

1 Q: Requested by Bob, Bob ...
2 A: Bob, yes.
3 Q: What kind of business arrangement did ... okay. First
4 of all, did you propose any kind of business
5 arrangement with Mr. ...
6 A: No.
7 Q: To the best of your knowledge, did Bob Bentley?
8 A: Bob possibly had.
9 Q: But if he did, you wouldn't have been privy to it?
10 A: No. Bob was just talking directly to them. I guess
11 he ... him and Gary had a lot of communication then...
12 Q: But to the best of your knowledge, nothing resulted
13 from it?
14 A: Not that I heard.
15 Q: What is about mixing METHOCEL that you know that you
16 feel that Dow's technical specialists don't know?
17 BY MR. UPTON: I don't think he knows what
18 Dow's technical specialists know.
19 A: No. I don't know.
20 Q: Do you feel that adding METHOCEL and water is an
21 original idea?
22 A: I don't believe so.
23 Q: If you don't feel that adding METHOCEL to water is an
24 original idea, then what is original about what you do
25 with it?

1 A: After you add it to water, it's what you add after
2 that that makes it unusual.

3 Q: Okay.

4 BY MR. UPTON: Haven't we plowed this
5 ground several times ...

6 A: Yeah. Right.

7 BY MR. WRIGHT: You may have.

8 Q: At what point did you and/or Robert Bentley decide
9 that you didn't want to market, manufacture or sell
10 any product that made use of the WOW or the PreservX
11 patents?

12 A: I don't think we had any ... the WOW patent, and Bob
13 made the decisions on the PreservX situation. I had
14 nothing to do with it.

15 Q: Okay. Well, let's say that I had never existed, Mr.
16 Woodard never existed, Gold Preservative never
17 existed, would you have done ... were there any plans
18 to do anything with this technology?

19 A: I believe Bob may have been able to have what I heard
20 from Bob a possibility with maybe Gary or some people.
21 I don't know. That's ... you've got to ask Bob. But
22 he might have. I don't know.

23 Q: Do you know whose idea it was to send a letter to
24 Flower's Bakery concerning Gold Preservative's
25 continued use of the product, do you know anything

1 about that?

2 A: I heard of a letter being sent somewhere, and that was
3 the discretionary of the attorney.

4 Q: Okay. I apologize for taking time, but I've got a lot
5 of questions, and I'm having to ... he's answered so
6 many of them that I'm actually skipping ...

7 BY MR. WRIGHT: Okay.

8 Q: ... things on the list, and I'm trying to skip
9 through, so ... and when I haven't been diligent,
10 that's when there has been ...

11 BY MR. WRIGHT: Okay.

12 Q: ... so a lot of it, he's answered already, so let me
13 try to skip as much as I can.

14 BY MR. UPTON: We would appreciate that.

15 OFF THE RECORD

16 Q: You've stated earlier that you're not a chemist, but
17 you're ... but what you've claimed in terms of your
18 intellectual property is all chemical, so we're just
19 trying to define what the, what the property is. I'm
20 going to hand you a piece of paper. Okay. Do we have
21 exhibits here? Do I have a mechanism for entering
22 exhibits?

23 BY COURT REPORTER: Yeah. You just hand it
24 to me, and I'll mark it as Exhibit number ...

25 Q: Mark that as Exhibit #1.

1 BY COURT REPORTER: ... Manos #1.

2 Q: Caton #1.

3 BY COURT REPORTER: #1.

4 Q: Sure. You've marked ... here. I'll tell you what.

5 Hand it back to me for a moment, and then mark ...

6 BY COURT REPORTER: And then you hand it to

7 him.

8 Q: Tag it ... yeah.

9 BY COURT REPORTER: Here you go.

10 Q: Okay. Let me ... I'll tell you what. I ... working

11 here, I've put things out of order. I'm going to hand

12 you my exhibit, and it says Manos #2 on it. Do you

13 know ... this exhibit number, do you know what this

14 is?

15 A: A periodic chart.

16 Q: Okay. If you had ... and what does a periodic chart

17 tell you?

18 A: Elements.

19 Q: The elements. If you had to pick the elements and any

20 of the compounds that you use, would you be able to do

21 it?

22 A: Some of them, yeah.

23 Q: Which ones do you think you might be able to do?

24 A: Well, you know, potassium sor-- you know, the

25 potassium, and then ...

1 Q: Okay. Let's take potassium sorbate ...
2 A: ... sodium ...
3 Q: ... and I pick it only because it's, it's the thing
4 that's in common between WOW and the PreservX patent.
5 Okay. What, what elements would be in, in potassium
6 sorbate?
7 A: I know the K.
8 Q: What is, what is K?
9 A: Potassium.
10 Q: What would be the others?
11 A: Let's see. It's a combination. It's the carboxyl
12 family. It would be connected with like ... it's a
13 chemical formulation, so ... I'm not really a chemist,
14 so I really wouldn't know exactly the combination off
15 the potassium and how to make the carboxyl family.
16 Q: Okay. When a person uses the word "carboxyl," can,
17 can anyone tell from the term "carboxyl" that it has
18 anything to do element specifically, or is "carboxyl"
19 more a term relating to a process?
20 A: I'm not ... I, I am not a chemist, but I, I know Doc
21 would give me how the chemical combination would be,
22 but I'm not a chemist, and I wouldn't know how ... the
23 combination thereof.
24 Q: Okay. Fair enough. I'd like you to take a look at
25 Exhibit #1. These have a list of formulas commonly

1 used in the food business. Are there any of these
2 that you recognize? First of all, how many formulas
3 are on Exhibit #1?

4 A: One, two, three, four, five, six.

5 Q: Do you recognize any of them?

6 A: Let's see. 6H2OOL6, I remember, I remember that one.

7 Q: Do you know what it is?

8 A: I believe it's ... let's see. That's sodium, that's
9 sodium ... potassium ... I'm not familiar with them,
10 but I ... you know, I've seen these before. I'm not
11 familiar with them ...

12 Q: You've seen them, but those partic-- (INTERRUPTION -
13 CELL PHONE) ... I apologize. I'm shutting this off.
14 So none of those that you would recognize ...

15 A: Well ... I mean, I recognize the potassium ... you
16 know, but ...

17 Q: Let the record show on Exhibit #1 number one is table
18 sugar, number two is ...

19 BY COURT REPORTER: Number one is a what?

20 Q: Table sugar ...

21 BY MR. UPTON: Greg, just go ahead and pass
22 it.

23 Q: Oh, okay. That's ...

24 BY MR. UPTON: It'll go into the record,
25 but ...

1 Q: Oh ...

2 BY MR. UPTON: ... you can't testify what

3 it is.

4 Q: I understand ...

5 BY COURT REPORTER: Yeah. Give them to me.

6 Okay. There you go ...

7 Q: My apologies. Again, just showing what a bad ...

8 okay. All right. Is the performance of sorbates,

9 benzoates or propanates to the best of your knowledge

10 improved as one lowers pH?

11 A: In some of your literature, you said that potassium

12 sorbate worked better at a low pH.

13 Q: Do you believe that to be true?

14 A: Not necessarily.

15 Q: Okay. Were you aware that sorbic acid is cheaper than

16 potassium sorbate?

17 A: Sorbic acid?

18 Q: Sorbic acid.

19 A: Is cheaper than ... you mean potassium sorbate ...

20 Q: Yes.

21 A: ... is cheaper than ...

22 Q: All right.

23 A: ... is cheaper than ...

24 Q: Yeah. Are you aware ... just yes or no. Were you

25 aware ...

1 A: (No verbal response.)
2 Q: So you're not aware. Were you aware that sorbic acid
3 is cheaper than potassium sorbate?
4 A: I believe so.
5 Q: Since it's cheaper, why would you not use sorbic acid
6 instead of potassium sorbate if it's cheaper?
7 A: You would probably use it, but if ... you're talking
8 about sodium propanate?
9 Q: No. This is not about propanate. It's between sorbic
10 ... first of all, do you ... you do know that
11 potassium sorbate is a salt of sorbic acid?
12 A: Correct.
13 Q: Do you know this ...
14 A: Correct.
15 Q: ... to be true ...
16 A: Yes.
17 Q: ... or am I just making it up, trying to get you to
18 use it ...
19 A: No, no, no, no, no.
20 Q: Okay. So, therefore, if it's the salt of sorbic acid,
21 why wouldn't you choose potassium sorbate over sorbic
22 acid if it's more expensive?
23 A: Well, one thing, if you use sorbic acid by itself ...
24 Q: Uh-huh.
25 A: ... you get a low pH, and it corrodes like crazy.

1 Q: So effectiveness is the reason that you use potassium
2 sorbate as opposed to sorbic acid ...

3 A: And, and basically, one, if you use sorbic acid, you
4 get a very low pH, under 6 and 3 ... whatever it is,
5 and like ... it's like 2.3, and anything under 6.7
6 that we found out starts corroding.

7 Q: Did you ever work with sorbic acid in a solution?

8 A: Yes.

9 Q: What characteristics does it exhibit that's different
10 than using the potassium sorbate?

11 A: Low pH.

12 Q: Other than the fact that ... so you're testifying that
13 other than the fact that sorbic acid has a lower pH,
14 there's no difference between using it and sorbic ...
15 potassium sorbate ...

16 A: Oh, yeah. Well, you get a higher pH with potassium
17 sorbate, which is a ... like was an 8.5, in a
18 different concentration, go 8, 8.59, and then you use
19 sorbic acid alone, you put a little piece of metal in
20 it, one is going to corrode within minutes, and one
21 isn't going to corrode forever.

22 Q: So, therefore, you're saying potassium sorbate is more
23 effective?

24 A: No question. For corrosion protection.

25 Q: What about for foods?

1 A: I, I tried a little bit with the food when I had some
2 ... and I believe that I had a better result and a
3 little bit higher pH, around 7.5.

4 Q: All right. I'm just trying to skip through. I know
5 we've got a time constraint, so ... Let's skip that.
6 In his testimony on page 108 of Bentley's testimony,
7 he indicates that ... it was his understanding that I
8 ... that Greg Caton had filed an additional patent of
9 his own in addition to the old patent and in addition
10 to the PreservX patent. Are you aware of any such
11 thing?

12 A: Yeah. I'm, I'm familiar with it.

13 Q: You are. So what you're testifying is that you know
14 that I filed a patent?

15 A: Yes.

16 Q: Can you produce it?

17 A: Can I produce your patent?

18 Q: Yes. The one that you just said existed.

19 BY MR. LAFLEUR: We did. It's in here
20 somewhere.

21 Q: Well ... okay. Well, again, let's get our terms
22 right. We're using the term "old patent" with
23 reference to the WOW patent. We used the term
24 "PreservX patent" or "new patent" for ... yeah. The
25 old patent is 6,833,087, and then there is the new

1 patent, which was recently rejected, which is the
2 PreservX patent, and I think you were comfortable
3 calling it new patent. Manos said in addition to
4 that, he knew that I had filed another patent on top
5 of that?

6 A: Yes.

7 Q: Have you seen that patent?

8 A: Awhile back.

9 Q: Okay. I'd like you ... Indicated that what I filed
10 was, was identical ... the patent that I filed was
11 identical with the PreservX patent. Do you know that
12 to be identical to the PreservX patent, or is it
13 different?

14 A: It's similar.

15 Q: It's similar. Okay. I want you to read page 108 and
16 tell me if there's anything in Bob Bentley's testimony
17 that you disagree with? He's making ...

18 BY MR. UPTON: The whole page?

19 A: Well, I ...

20 Q: Sure.

21 A: ... (READING TO HIMSELF) ...

22 BY MR. UPTON: Why don't you ask him
23 specifically ...

24 A: Yeah. Yeah ...

25 Q: Okay. Sure. There ... okay. "Q: And it's your

1 information that these two pending patent applications
2 are identical?" Mr. Bentley responds, "Yeah. A lot
3 of it is word for word. A lot of plagiarists in there.
4 Do you feel I plagiarized?
5 A: I said it looks similar.
6 Q: Okay. "How did you come upon that information?" His
7 answer, "My patent attorney had looked at it, and
8 Dave Manos, he was informing me also how closely
9 related the two patents are." You thought they were
10 closely related?
11 A: I believe similar identifies that.
12 Q: Okay. Well, and that ... On page 116 of Bentley's
13 testimony, he says that you and ... let's see it real
14 quick. And I'm getting to the end, gentlemen. I'm,
15 I'm sorry. He claims that you developed a method to
16 stop rust on metal ... a superior way of stopping rust
17 on metal. How is it superior to, how is it superior
18 to ...
19 BY MR. UPTON: We've already asked and
20 answered this, didn't we?
21 A: Yeah.
22 BY MR. UPTON: I think ... hasn't the same
23 question being asked ...
24 A: Yeah.
25 Q: Okay. You testified earlier that Bud Bendiner, you

1 testified earlier that Bud Bendiner was dealing in
2 metal side and wasn't dealing in foods?

3 A: Dealing in both.

4 Q: But you worked for Bud Bendiner, correct?

5 A: I worked with Bud Bendiner.

6 Q: Well, you worked, worked in the Bendiner Group?

7 A: I worked with him prior to the Bendiner Group.

8 Q: Okay. I'm going to hand you a patent. It's patent
9 number 6,103,294. This is a patent that was filed by
10 Bud ... but Bernard "Bud" Bendiner or Bernard
11 Bendiner...

12 A: Uh-huh.

13 Q: ... and it's for foods, and you indicated further you
14 know of nothing he did in foods, but yet this is dated
15 1998. What I want you to tell me is how ...

16 A: I think it's '98.

17 Q: ... is it he would have filed this, and you not know
18 about it if you worked with the Bendiner Group?

19 A: Oh, I knew Bud had a food preservative.

20 Q: But you testified earlier that to the best of your
21 knowledge he only ... ever worked with just metals
22 only?

23 A: No, I didn't. If you recall, I saw the food
24 preservative back with MCLI in a jar, and the inventor
25 of that process was Bud Bendiner, and that's why I

1 called RC Cola, so I was familiar with his food
2 preservative.

3 Q: Okay. I have no more questions concerning that, no
4 more questions at all.

5 OFF THE RECORD (T3/S2)

6 Q: Okay. I'm handing you a series of photographs, and
7 all these photographs are taken of PreservX Plant and
8 Laboratory that are essential to the running of
9 PreservX operation circa 2003. That is to say none of
10 these go beyond the Summer of 2003. None of these are
11 recent photographs. They're all photographs that were
12 taken at the time that we had the PreservX operation.
13 I want to see if you know what any of this equipment
14 is used for in the production of PreservX material?
15 Do you recognize that photograph?

16 A: Yeah. That's when we first got started.

17 Q: And I apologize. Again, I'm probably not following
18 protocol here. Could you tag those?

19 BY COURT REPORTER: You can either enter
20 them #3 in globo, since it's ...

21 Q: Sure.

22 BY COURT REPORTER: ... just several
23 pictures. Let's do it that way ...

24 Q: Well, here's the pictures. So ...

25 BY MR. WRIGHT: I just want to make sure

1 that everybody understands. I object to the
2 characterization of this having anything to do
3 with PreservX. You can call it however you want
4 to call it.

5 BY MR. UPTON: Yeah. And we agree with
6 that objection.

7 BY MR. WRIGHT: Okay.

8 BY MR. UPTON: Or, you know, you can call
9 them WOW patent or PreservX patent ...

10 BY MR. WRIGHT: Right.

11 BY MR. UPTON: ... and that has no
12 significance other than a ...

13 BY MR. WRIGHT: Right.

14 BY MR. UPTON: ... tag put on them ...

15 Q: It's not the issue, it's not the issue, et cetera ...

16 BY MR. WRIGHT: We agree with you.

17 BY MR. DELAFIELD: I have one other
18 objection, and that is, I want the photographs
19 identified as A, B, C, D ...

20 BY COURT REPORTER: Yeah. I was going to
21 suggest that ...

22 BY MR. DELAFIELD: Okay.

23 Q: I'm going to give them all to you, and go ahead and
24 have them identified.

25 BY COURT REPORTER: I was going to suggest

1 that, so that they don't get confused. All
2 right. Now, we've got A through G. Who wants
3 them?

4 Q: Irrespective of what name you would give it, would any
5 of this equipment that you see in exhibit marked #3 be
6 useful in making a preservative product? Do you
7 recognize any of the equipment in there, and would it
8 be useful in making anything to which you claim
9 intellectual property?

10 BY MR. DELAFIELD: Let the record he's ...
11 the witness is looking at #3-A.

12 Q: #3-A. I apologize.

13 A: Well, blending would be one very key element, which
14 that looks like you have a few blenders in there.

15 Q: Okay. I'm now showing you #3-B. Do you know what
16 you're looking at in that photograph?

17 A: It looks like some storage tanks.

18 Q: Is there anything particular about the lines that are
19 being used to feed the tanks?

20 A: It's coming from probably ... it could be probably a
21 finished product.

22 Q: Okay. And do you know what material you would use to
23 be within FDA regulations?

24 A: What material? It better be all food grade,
25 ingestible.

1 Q: I'm handing you #3-C. Can you tell me anything about
2 what you see in that photograph?

3 A: I think that was to heat it up, and I think there was
4 like a heating element that you wanted to put in with
5 the slow thing to heat ... to make that ... to heat up
6 the temperature, so we could ... you could heat the
7 METHOCEL and get it up to a temperature so it would go
8 into the solution better.

9 Q: Is that an important part of making your product?

10 A: What?

11 Q: Is that important ... let's say that I just said,
12 forget it, I'm not going to, I'm not going to heat
13 nothing, I'm just going to put them...

14 BY MR. UPTON: By "making," you mean
15 manufacturing ...

16 Q: Manufacturing ...

17 A: Oh, no, no, no, no, no. There's a, there's ... you
18 can use a cold process or a heat process, either/or.
19 It doesn't matter ...

20 BY COURT REPORTER: I didn't hear what you
21 had to say, Greg ...

22 BY MR. UPTON: I just said, by "making" it,
23 we're talking about the manufacturing of a final
24 product ...

25 Q: Right. Yes.

1 BY MR. UPTON: Okay. And that's what these
2 are, pictures of manufacturing machines?
3 Q: The parts of the plant used to make ...
4 BY MR. UPTON: Okay.
5 Q: ... that we were all a part of.
6 BY MR. UPTON: Okay.
7 A: Well ...
8 Q: I'm showing you #3-D. Do you know what that is?
9 A: That's new, and that wasn't there when I was there.
10 Q: Do you know what the functionality of that equipment
11 is?
12 A: It looks like a couple of holding tanks and
13 filterization system to filter out any byproducts and
14 then the holding tank to store it.
15 Q: #3-E, can you identify the piece of equipment you're
16 looking at in #3-E?
17 A: That's all brand new. That could be a type of a
18 furnace application, it looks like. I have no clue.
19 It looks like a furnace.
20 Q: #3-F, are you able to identify anything in that
21 picture? It's laboratory equipment.
22 A: You've got a computer and it looks like weight,
23 probably conductive meters and probably some type of
24 laboratory testing equipment for pH adjustments. It's
25 all new. I mean, that's not the ... it wasn't there

1 when I was there.

2 Q: If you had a lab with analytical equipment in
3 connection with the manufacturing of these materials,
4 what would you use it for, why would you need
5 analytical equipment?

6 A: Well, it would always be good to check out for
7 degradation or to make sure you're consistent ... your
8 products are consistent with your pH, and you would
9 always want to keep testing your samples, and if you
10 could do it internally, it would save you a lot of
11 money.

12 Q: Would you ... besides pH, what would you be looking
13 for?

14 A: Oh, microbial growth and things like that, you know,
15 and be testing products on the shelf, go with ominous
16 conditions, you know, chilled conditions.

17 Q: I'm handing you the last picture, #3-G. Can you
18 identify anything in that picture?

19 A: Geez, it's hard to see. It looks like some type of a
20 ... oh, what do they call them, like a ... well, I'm
21 not ... I can't remember what they call that, but I
22 ... for heating elements. I can't see all the way
23 down there on the ends and stuff like that, but it
24 looks like some type of conduct ... it's hard to see,
25 microscope, this might be antimicrobial ... maybe for

1 testing and storing the product in different
2 temperatures and then analyzing the antimicrobial
3 growth down there, and I can't identify the end ones.
4 Q: Okay. I'm going to ask you to look at this ... and
5 how am I going to do this? It when I need to do
6 exhibits that ...
7 BY MR. UPTON: Just hand them to her, and
8 she'll make it.
9 BY COURT REPORTER: Hand it to me.
10 Q: Okay.
11 BY COURT REPORTER: Is this what you want
12 to attach?
13 Q: Yes, uh-huh.
14 BY MR. UPTON: Okay.
15 BY COURT REPORTER: It's Manos #4.
16 BY MR. UPTON: Let's see ...
17 BY COURT REPORTER: You have to show it to
18 Greg.
19 BY MR. UPTON: It looks like it's an
20 unsigned ... is there a signed version of this,
21 or is it unsigned? Did they have ...
22 Q: Well, we looked for a signed one. This is what you
23 provided us. We can't find one.
24 BY MR. UPTON: Okay. No. I was just
25 asking. I didn't know. I just ...

1 Q: It has ... Wonders of Water is what it had on it, and
2 I wanted you ... I'm sorry ...

3 BY MR. DELAFIELD: Identified as a Bates
4 stamped Man #1.

5 BY MR. UPTON: Man #1. Okay.

6 Q: Correct. Okay. I'm going to read it. It says, "Be
7 advised" ... it says, "Dear Dave," and it's not
8 signed, but it's got Wonders of Water letterhead, so
9 where did it come from? Again, Again, we never had a
10 copy. This is something you provided to us. We don't
11 have a copy of it signed. It's all we've got. But it
12 says, "Dear Dave" ... it's a letter that is addressed
13 to you on October 29th, 2002, and it says, "Be advised
14 that per article 11 of the Wonders of Water, L.L.C.,
15 operating agreement signed in May, 2000, you are under
16 a confidentiality agreement with Wonders of Water.
17 Lumen is also under a confidential disclosure
18 agreement with WOW." Well, they're claiming here that
19 you were under a confidentiality agreement, but
20 earlier you had testified that you were under no kind
21 of contractual obligation ...

22 A: I was never employed.

23 Q: Well, that's not what I asked though.

24 BY MR. UPTON: Well, first of all, whether
25 he's under a confidentiality agreement is a

1 legal conclusion that he's not ... he can't
2 render, but ... and so ...

3 A: I'd like ...

4 Q: Did you ever sign a confidentiality agreement with
5 Wonders of Water?

6 A: I signed an operating agreement.

7 Q: Did you ever sign a confidentiality agreement?

8 A: They gave me one on 3/9, but then we ... I believe
9 after 3/19 or whatever, they had a confidentiality
10 agreement that we were signing, but then we had to go
11 and redo everything and sign an operating agreement.

12 Q: So yes or no, do you recall signing a confidentiality
13 agreement with Wonders ...

14 A: Yeah, on 3/19.

15 Q: Okay.

16 A: Can I see that document?

17 Q: Sure.

18 A: Hang on and let me read this.

19 Q: Again, I'm just ... there's certain things I've marked
20 here, and please bear with me. I'm just skipping
21 through it, but it might be redundant, so please bear
22 with me. Okay. I'm going to hand you ... do you want
23 to ... however you do this. It says Man #49. Is that
24 ... how do you say that? Do you say Bates #49?

25 BY MR. WRIGHT: Bates stamped.

1 Q: Again, my apologies. I'm not an attorney ...

2 BY COURT REPORTER: It's Bates stamped Man

3 #49, but I'm going to stick a sticker on it, and

4 it's Manos #5 to his deposition ...

5 Q: Okay.

6 BY COURT REPORTER: ... and hand it to

7 Greg.

8 Q: I have several questions in connection with this

9 document.

10 A: Okay.

11 Q: Okay.

12 BY MR. UPTON: Go ahead ...

13 Q: Okay. Well, actually, I need it to actually ask the

14 questions, because I'm going to actually read from it.

15 BY MR. UPTON: Oh, okay.

16 Q: Okay. In the very first paragraph, you say ... in the

17 letter to John you're making the representation,

18 "Please remember the PreservX product is approximately

19 50 to 60 percent cheaper to manufacture than the

20 previous products, and we now have the capability to

21 work in a pH range of 1.5 to 14." On what basis are

22 you making the representation that the product is 50

23 to 60 percent cheaper to make?

24 A: What's the price of potassium ...

25 Q: Did you use a spreadsheet ...

1 A: ... what's the price of potassium sorbate?

2 Q: Well, it's changed significantly since 2003, I can
3 tell you that.

4 A: Well, I know. And sodium propanate is about a third
5 of the cost.

6 Q: But I'm saying, how did you know that it was 50 to 60
7 percent cheaper to make, because you already said it
8 was more concentrated, which made it more effective?

9 A: That's in the metal side. It would be about a third
10 of the cost to manufacture it, because the basic
11 process of that product is basically X amount of wax,
12 X amount of sodium propanate and water, and if you
13 price it compared to potassium sorbate, it would be
14 definitely be at least 50 percent cheaper to
15 manufacture than it would be to manufacture it with
16 potassium sorbate.

17 Q: What does it mean to you when you say, "We have the
18 capability to work in a pH range of 1.5 to 14?"

19 A: Well, 1.5, what we could do is we could get extreme
20 etching material to take off rust or to etch a
21 material faster, and also we can go up to a higher
22 alkaline status than we ... than normal ...

23 Q: So the product will work in that wide of a range?

24 A: For different properties. If you want to take off
25 rust, it works better. Now, we can, we can go ... if

1 you go low on the pH, sometimes with the potassium
2 sorbate, you'll pulverize it and break it up. With
3 the new processes, we didn't have that problem.

4 Q: What does it mean, the second paragraph, where it
5 says, "And after numerous tests, our product parallels
6 with the old and in some ways works better."

7 A: Well ...

8 Q: What tests?

9 A: The Thermal Metals testing paralleling with WOW's RP20
10 and the LCC1.

11 Q: Where are all the tests? You provided here all with
12 RP20, and none of them were with new.

13 A: Check Thermal Metal's, they are.

14 Q: So in their test ... it's Thermal Metal testing that
15 had been done with ...

16 A: LCC1.

17 Q: With LCC1?

18 A: Right.

19 Q: I thought that was a tire lube?

20 A: No. That was a coating.

21 Q: For rust prevention?

22 A: Rust prevention.

23 Q: Okay. And the fourth paragraph, it says, "The new
24 tire lube is in the process of being tested and sold
25 currently to a major tire mounting company." What

1 company was that ...

2 A: I don't know. Tim had some company that wanted it to

3 start testing this tire lube, but if you look at the

4 date on that ... what happened ... let me just get my

5 status here. I believe ... when that letter went out,

6 I don't know how that went that way. I ...

7 Q: It's May 21st, 2003.

8 A: Yeah. Because I think I might have been in the

9 hospital.

10 Q: Okay.

11 A: Because I went through surgery about May 15th, so ...

12 Q: Okay. It says ... I'll repeat. It says, "The new

13 tire lube is in the process of being tested and sold

14 currently to a major tire mounting company." Do you

15 know what that ... who that company was ...

16 A: I don't know. That was through ... Tim Morgan was

17 working with a tire lube ... a tire company somewhere

18 up in ... I don't even remember what it was, but if

19 you check the date, I've got correspondence that I

20 might be in the hospital ...

21 Q: Okay. What the letter ... what is being represented

22 to John ... well, first of all, in what capacity are

23 you saying this? Were you hoping that John would be

24 an investor, or he would be a reseller, or he ... in

25 what capacity are you communicating with him about

1 what ...

2 A: I ...

3 Q: ... PreservX is doing? Because it's in the range in

4 which PreservX would have ... or, excuse me. It's in

5 the time frame in which PreservX would have been an

6 operating company ...

7 A: Oh, yeah. I'm sure you were talking to John at the

8 same time and gave John a lot of encouragement,

9 because John was going to go out there and help us

10 sell and promote the metal side of the technology.

11 Q: Okay. But what you're ...

12 A: And ...

13 Q: ... representing here in this letter is that we have

14 a customer, we're selling the product, and,

15 furthermore, the product that we're ... it says sold

16 currently, and "currently" means present tense, like

17 in the ...

18 A: (READING TO HIMSELF) ... "is in the process of being

19 tested and sold currently to a major" ... I never ...

20 that was in the ... that's wrong ...

21 Q: Is this perhaps a typo? I'm going to point you to ...

22 I need this stamped however you, however you stamp it.

23 BY COURT REPORTER: Okay. This is Manos

24 #6, and it's Bates stamped Man #54. I'll let

25 you see it, Greg.

1 Q: Okay. Ma'am, I'm finished.

2 BY COURT REPORTER: Well ...

3 BY MR. UPTON: Have you got ... are you

4 going to ask some questions about that, or at

5 least have him identify it?

6 BY COURT REPORTER: Yeah.

7 Q: Well, I ...

8 BY COURT REPORTER: At least, at least

9 since we ...

10 BY MR. UPTON: Just, just withdraw it.

11 BY COURT REPORTER: All right. So we're

12 going to withdraw #6, and there will be no #6?

13 Q: Hold on, ma'am. This will be my last question, and

14 then I'm ... on this Exhibit #6, what Mark Westbrook

15 ... and Mark Westbrook signed this, what he's claiming

16 is that you are ... that you may have basically

17 violated your fiduciary responsibility to them. And

18 I mean, do you agree or disagree, and if you disagree,

19 why? I'll tell you what. I'll just read the

20 pertinent part of the letter. "It has come to our

21 attention that you may have diverted or negotiated for

22 yourself business opportunities that you should have

23 presented to Wonders of Water. As a manager of WOW,

24 you have a duty of loyalty to the company. That duty

25 includes the obligation to present all opportunities

1 related to WOW's business to the company before
2 presenting them to others or pursuing them for your
3 personal benefit." Do you feel that anything you had
4 done was in violation of your operating agreement?
5 A: No. WOW had a contract with PreservX, period.
6 Q: Okay. I believe ...
7 A: At that time, I believe WOW had a contract with
8 PreservX.
9 Q: All right. Ma'am, I believe I'm done.
10 OFF THE RECORD (T4/S1)
11 RE-EXAM BY MR. WRIGHT:
12 Q: Mr. Manos, I'm going to try to be brief, because I've
13 done just a lot of stuff, and I realize that you've
14 testified quite a bit since I questioned you last, and
15 on a couple of occasions, you said ... I remember you
16 saying, I'm not a chemist, and I realize that you
17 don't ... we've talked about your educational
18 background, and you ... have you taken any specialty
19 courses from anybody, any manufacturer or anybody that
20 has to do with chemicals or chemical formulations?
21 A: No.
22 Q: Okay. And you don't belong to any professional
23 societies that have to do with chemicals, chemistry,
24 or chemical formulations, or food preservatives, or
25 anything, metal preservatives?

1 A: No.

2 Q: Okay. Have you ever been convicted of a crime?

3 A: Yes.

4 Q: What were you convicted of?

5 A: It was conspiracy and trafficking cocaine.

6 Q: When was that?

7 A: 1987.

8 Q: And where was that located?

9 A: Broward County, Florida.

10 Q: And were you convicted, or did you plead guilty?

11 A: I was convicted.

12 Q: Okay. And did you ... were you sentenced to serve

13 time in jail?

14 A: Yes.

15 Q: Did you serve time in jail?

16 A: It was overturned.

17 Q: It was overturned?

18 A: Right. It was a three year probation I finally got.

19 Q: Okay. So you ultimately ended up ... not that your

20 conviction was overturned, but your sentence was

21 reduced to three years probation, is that what you're

22 saying?

23 A: This is correct.

24 Q: Okay. Have you ever been convicted of anything else?

25 A: Not even a traffic violation.

1 Q: Okay. I want to ask you this. I received yesterday
2 by fax some amended pleadings filed on your behalf,
3 and one of the things I received with that was a
4 verification which appears to have your signature on
5 it. Did you review some pleadings yesterday and sign
6 saying that they were true and correct?

7 A: Yes.

8 Q: In the verification, I'd like to ask you this, because
9 ... I'm going to read it to you, and it says, "Before
10 me, the undersigned notary, personally came Paul David
11 Manos, of 107 Cypress Way, State Line, Nevada." Now,
12 when I asked this morning where you resided, you
13 didn't tell me 107 Cypress Way, State Line, Nevada.

14 A: That's where my wife is residing, and that I am, I ...
15 we both still take our other house as Pinehurst.
16 We're just residing there for a break for a little
17 while now. But the permanent residence is Pinehurst.

18 Q: But this is where you're currently living?

19 A: I don't know how much ... if I'm going to live there
20 any more or not. That's a good question.

21 Q: Okay. Well, I assume you're going to ... when the
22 deposition is over, you're going to leave here, and
23 you're not staying in Alexandria, I presume?

24 A: No.

25 Q: Where do you plan on going?

1 A: I'll probably have to go back there. Then I am going
2 to Pinehurst.

3 Q: With or without your wife?

4 A: We have no clue yet. It's up in the air.

5 Q: Okay. One of the things that struck me when I was
6 reading through these patent applications, they're
7 awfully technical, would you agree?

8 A: I didn't, I didn't write them.

9 Q: Okay. Who wrote them?

10 A: Well, the patent attorneys.

11 Q: And did Bob Beck consult with them in that?

12 A: Bob ... on which one?

13 Q: Well, any of them to your knowledge.

14 A: Bob consulted on patent ... the old patent.

15 Q: Okay. So that would be what we call the WOW patent,
16 the old patent?

17 A: The old patent.

18 Q: Okay. You know, I'm sitting here reading a footnote
19 to your pleading, and it says, lower alkyl carboxylic
20 acid moieties. Can you tell me what a lower alkyl
21 carboxylic acid moiety is?

22 A: That's where the sodium propanate family and the
23 propionic acid families are, are, are evolved in.

24 Q: Okay. Well, why wouldn't you just say sodium
25 propanate and its derivatives or its ...

1 A: Well, the thing about it, it could be possible the
2 whole carboxyl family if you research or test it out.
3 We basically tested out a few things, but to protect
4 it, you would use that, and that's what they said to
5 get a broader description.

6 Q: Okay.

7 A: Recommended by the patent attorney.

8 Q: Okay. So what you're telling me to the best of your
9 knowledge is, this write-up that goes back to the
10 provisional and then the subsequent patent apps to the
11 best of your knowledge was written up by patent
12 attorneys?

13 A: Helped written out by patent attorneys, yes, taking
14 information that we gathered, and then they would put
15 it into ... just like Holly Heine did.

16 Q: Okay. Well, you're familiar with Holly Heine. What
17 do you know about her educational background that
18 would allow her to do something like that?

19 A: She has a Ph.D. in chemistry, I believe.

20 Q: Right. And how about Jason Cooper?

21 A: I believe in their staff, they have some very sharp
22 Ph.D.'s.

23 Q: So perhaps someone on their staff does?

24 A: Possibly, definitely.

25 Q: Okay. Why ... can you explain to me why, or if you

1 know, or if you made the decision, or if you didn't
2 make the decision, tell me who did, there was
3 initially a provisional patent that was filed, and it
4 listed Dave Manos and Greg Caton as the inventors.
5 You're familiar with that?

6 A: Yes.

7 Q: Filed by Austin and Bird?

8 A: Yes.

9 Q: And then in your name an patent app was filed that
10 listed solely you as the inventor also filed by Austin
11 and Bird in June of 2003.

12 A: Yes.

13 Q: You're familiar with that?

14 A: Yes.

15 Q: Okay. And is this the document that you're talking
16 about that the lawyers wrote up to the best of your
17 knowledge?

18 A: The head chemist, yes.

19 Q: Okay. And are you the one who decided when you filed
20 this patent application to leave yourself on there as
21 the sole inventor?

22 A: That was the discretion of the patent attorneys and
23 Bob, but by the patent attorneys too.

24 Q: So you're saying that decision was made by the patent
25 attorneys?

1 A: With information that was given to them.

2 Q: And who gave them the information?

3 A: Bob, and they requested information.

4 Q: Okay. "Bob," who is Bob?

5 A: Bob Bentley.

6 Q: Jr., or Sr.?

7 A: Either/or. I can't remember exactly who it was ...

8 Q: Okay. So one of the two people who you and I can

9 agree had absolutely nothing to do with the inventive

10 process told the patent attorneys that you were the

11 sole inventor?

12 A: I believe they had to have information pertaining to

13 that, and I believe with the correspondence back and

14 forth of Austin and Bird, they felt at their

15 discretion that they put myself on as an inventor.

16 Q: And what did you tell them that you did that you felt

17 like gave you the right to claim inventor status?

18 A: I don't think I really had to tell them much because

19 of the correspondence that we had back and forth, and

20 I believe there was a letter saying I was the

21 inventor, or ... from November 13th that would give

22 them justifiable information to move forward.

23 Q: A letter saying you were the inventor written by whom?

24 A: Well, signed by Greg Caton and everybody identifying

25 me as an inventor ...

1 Q: "The" ... "an inventor" or "the inventor?"
2 A: The inventor, it says I'm the inventor on that
3 application.
4 Q: Did ... well, I realize the application says that.
5 Mr. Caton didn't sign off on that application that you
6 filed, did he?
7 A: I don't believe so.
8 Q: Okay. You're saying there's a letter signed by Mr.
9 Caton to you that says you are the inventor?
10 A: I believe that letter of intent says that.
11 Q: You believe the letter of intent says that?
12 A: I believe so.
13 Q: And is that one of the documents that you produced
14 today?
15 BY MR. UPTON: Oh, yeah. It's ... I think
16 we looked at it earlier.
17 A: Yeah.
18 BY MR. UPTON: I think we did, and if we
19 didn't, I know it's in that pile. It's one ...
20 Q: I'm going to read, I'm going to read through a couple
21 of statements that you have in your lawsuit. Well, I
22 do see a letter from Austin and Bird saying that you
23 have to verify you're the sole inventor. Is that what
24 you're referring to?
25 A: No. No. It was a letter on November 13th.

1 BY MR. UPTON: It's in there, and it has
2 letter of intent on top ...

3 A: Right.

4 BY MR. UPTON: ... and it's signed by all
5 three parties.

6 Q: Okay. Well, while that's being looked for, you allege
7 in your lawsuit that an assignment that you signed of
8 the WOW patent is invalid, because you were never
9 given any consideration. Do you recall that
10 allegation?

11 A: Yes.

12 BY MR. UPTON: What paragraph is that?

13 Q: Nine.

14 BY MR. UPTON: Okay.

15 A: Uh-huh.

16 Q: What did you do for Wonders of Water for which you
17 were appointed member manager, one of four voting
18 member managers, for which you received one million
19 shares of membership interest?

20 A: That was from the old company.

21 Q: But the old company wasn't merged into the new
22 company?

23 A: All the people that came from the old Bendiner Group
24 got the equal shares from there in WOW or the same
25 percentages were calculated that you receive the same

1 units in Wonders of Water.

2 Q: Is there some document between the Bendiner Group and
3 WOW that provides that?

4 A: It should be in their records.

5 Q: Well, I don't have Bendiner Group records. The only
6 one ...

7 A: Neither do I.

8 Q: ... who had access to them that I know of would have
9 been you.

10 A: Well, the ... where Joe ... we took ... they took it
11 all over, and they put it in their offices.

12 Q: One of the things that you also say you allege in
13 paragraph 12, that you begin that, and you complain
14 that while Beck and you both signed the first
15 assignment of the old patent, that the subsequent
16 assignment was invalid, because only you signed it,
17 and he didn't, correct?

18 A: Correct.

19 Q: Yet you turned around and only you signed an
20 assignment of that same patent to Bentley, so if your
21 logic is that the assignment without Beck's signature
22 wasn't valid the first time, why is it valid the
23 second time?

24 A: I can ... in the second assignment, I signed my rights
25 of the patent to Bob Bentley for protection in case I

1 died or something happened ...

2 Q: Well, but Bob Beck didn't sign that, did he?

3 A: Oh, no.

4 Q: Okay. So what I'm asking you is, in one place in your

5 lawsuit, you're arguing that the assignment is not

6 valid, because Beck didn't sign it, and that's the

7 assignment to Ingenuity and Ideas, you're arguing that

8 you ... only you signed it, and Beck didn't,

9 therefore, that assignment is invalid, and yet later

10 on, you're arguing that your assignment without Beck's

11 signature to Bentley is valid, and my question to you

12 is, why can ... why is your assignment valid without

13 Beck's signature to Bentley when it's not ... when

14 you're saying it's not valid to Ingenuity and Ideas?

15 A: The only thing I'm saying there is, I protected Bob on

16 my ... in case I got any monies out of this deal, that

17 Bob would be protected on that assignment.

18 Q: Excuse me just a second.

19 OFF THE RECORD

20 Q: One of the things we had asked for for the purposes of

21 this deposition was tax returns, and the only thing I

22 see filed here is a K-1 for the year 2000. Have you

23 filed tax returns for year 2000 to the present?

24 A: I haven't filed any tax returns to the present.

25 Q: When is the last year you filed a tax return?

1 A: I think it was '99.

2 Q: And is it your position that all the money that came
3 to you from Bentley is not income to you?

4 A: I would have to pay it back.

5 Q: Are you suggesting that there's a promissory note
6 somewhere?

7 A: I ... Bob and I talked to his father, and I said, I
8 promise to pay him back, and they're ... I ... they
9 know my word is my bond.

10 Q: Are there any promissory notes that obligate you to
11 repay any of that sum of money?

12 A: No.

13 Q: So you're not under any legal obligation to pay it
14 back, you may feel like you morally want to pay it
15 back ...

16 A: I will pay it back.

17 Q: Well, I'm not trying to be horsey, Mr. Manos, but I
18 mean, I asked you about it at length this morning, and
19 I don't think you've ever had a job hardly. How are
20 you going to pay it back?

21 A: Well ...

22 BY MR. UPTON: I, I ...

23 Q: By being successful in this lawsuit?

24 BY MR. UPTON: ... I object. That's ...

25 Q: You made a comment earlier that I wrote down, because

1 it was ... I thought it was ... and I wasn't quite
2 sure what you said. You were being asked a question
3 about an MSDS sheet, and your comment was, Doc wrote
4 the MSDS sheet. Do you recall saying that?

5 A: Yes.

6 Q: Okay. Who's Doc?

7 A: Dr. Robert Beck.

8 Q: Okay. I didn't know who you were speaking about. And
9 you were also asked a question, and your response was,
10 I don't know, I'll have to speak with my patent
11 attorney. Who's that, who are you referring to?

12 A: Which one?

13 Q: Well, I don't know ...

14 A: The old patent would be ... my patent attorney back
15 then was Holly Heine, and the new one would have been
16 Austin and Bird.

17 Q: Okay.

18 A: Pertaining to what? I don't know what the ...

19 Q: I ...

20 A: ... question was. You said, talk to my patent
21 attorney, and I didn't know what it pertained to ...

22 Q: Well, your response was, I'll have to talk to my
23 patent attorney, and I was asking who were you
24 referring to?

25 A: I would say really you'll have to talk to Bob's patent

1 attorney or PreservX's, whatever you want to call it.

2 Q: Okay.

3 A: I ... that must be a misquote.

4 Q: Okay.

5 A: Because it's not my patent attorney.

6 Q: Okay. I listened to a bunch of questions about

7 formulas, SG150, RP150 and all that kind of stuff.

8 Bob Bentley told us that his belief, which he

9 attributes to getting from you, was what was important

10 about the product that Mr. Woodard's company is making

11 was not the chemicals that were comprised in it but

12 the method it was put together. Have you ... did you

13 ... are you aware of that?

14 A: Yes.

15 Q: Is his impression correct?

16 A: Yes.

17 Q: To the best of your knowledge?

18 A: Yes.

19 Q: And is what you're saying today that what's important

20 in the method of formulation is that you have to heat

21 the METHOCEL?

22 A: That's not necessary ...

23 Q: Okay.

24 A: ... to make methylcellulose work.

25 Q: Okay. So it's the order of putting the ingredients

1 together in a solution, is ... that's important?

2 A: I believe that putting the methylcelulose in first and

3 then the proper organization, or after that, you can

4 use a variation of organics, is, is the key ... is how

5 to stabilize it is by using the methylcelulose first.

6 Q: Okay. And ...

7 A: The order is ... what you said is correct.

8 Q: Okay. So what you're saying is, you start by taking

9 methylcelulose and putting it in some fluid or

10 solution, correct?

11 A: Correct, a certain viscosity.

12 Q: All right. And that will ... is that dependent upon

13 the amount of methylcelulose you use and the amount of

14 fluid that you use, does that have to be a precise

15 formula?

16 A: You can have variations.

17 Q: Well, I understand you can get variations, but ...

18 A: You don't want to go too thick or whatever, because

19 you get too much viscosity ...

20 Q: So there is some relationship between the amount of

21 methylcelulose and the amount of fluid that you use,

22 is that correct?

23 A: Or organics. Sometimes you can use too much of

24 organic, you won't get it into the solution, because

25 it will not ...

1 Q: Well, we hadn't got to the organics yet.

2 A: Okay.

3 Q: Okay. We're just doing it in the order that you say,
4 and the first order of business is to what, put water
5 in a blending vessel of some sort?

6 A: Put the water in and then add the methylcellulose to
7 it.

8 Q: Add the methylcellulose, then what do you do, do you
9 blend it for a certain period of time?

10 A: Until ... yeah ...

11 Q: How long?

12 A: ... until it clears up, and take ... it varies how
13 much you have.

14 Q: Okay. And why does it have to clear up?

15 A: Well, you want the molecule to hydrate and get
16 completely dissolved.

17 Q: Okay. Is it possible that methylcellulose will fall
18 out of a solution even if it completely dissolves?

19 A: I haven't seen it.

20 Q: Okay. Methyl-- you can tell though ...

21 A: On evaporation, you'll see it get thicker, but not,
22 not if you don't have evaporation, and it's not
23 sitting around for weeks or months.

24 Q: Okay.

25 A: In an open container.

1 Q: All right. And then after that, you put in this
2 trifecta cocktail that apparently Mr. Caton had been
3 using in his vegetarian jerky business, the sorbates,
4 the propanates and the benzoates?

5 A: In a high concentration, yes.

6 Q: Okay. And is the amount of each of those chemicals
7 important that you put into this solution?

8 A: It is not ... for the way the patent was written, it
9 only stabilizes that cocktail. It's not, it's not
10 that ... if you use it without that, it breaks apart.
11 If you use it with it, it helps it stabilize it in the
12 solution, so when you dilute it down into the water or
13 other properties, it attaches itself, so it stays
14 together better.

15 Q: Okay.

16 BY COURT REPORTER: Do you need to go off
17 the record?

18 A: Don't tell me you're going to go again?

19 Q: No. I'm ...

20 OFF THE RECORD

21 BY COURT REPORTER: Okay. Mr. Delafield?

22 EXAM BY MR. DELAFIELD:

23 Q: All right.

24 A: Oh, boy.

25 Q: Mr. Manos, my name is Jay Delafield. I represent WOW

1 and Joe Winkiel. I'm going to ask you a few questions
2 today. First, have you ever done any scientific
3 testing on any of these formulas?

4 A: Did I do any scientific testing?

5 Q: Yes, sir.

6 A: We sent it out for testing.

7 Q: Okay. But have you done any of it personally, the
8 testing?

9 A: Oh, yeah. I've tested it to see how it would work,
10 prior to testing ... sending it out, yes.

11 Q: Where did you do your testing work at?

12 A: Oh, if I was over at the Bendiner Group, I did it in
13 the laboratory, then I would ...

14 Q: And where was that lab ...

15 A: That was like on Fields Drive or something, something,
16 Fields Court, Fields Drive. That ...

17 Q: Where ...

18 A: ... was a little trailer we worked out of in the
19 beginning.

20 Q: Where ...

21 A: It was in Aberdeen, I believe it was, Aberdeen or
22 right in there.

23 Q: North Carolina?

24 A: Yes.

25 Q: Okay. Where else have you done scientific testing on

1 these formulas?

2 A: Well, I've done some stuff when I worked out of my
3 house. I've left it outside. I've done different
4 variations of humidity, checked the humidities ...

5 Q: Uh-huh.

6 A: ... checked that and everything, and then we did a lot
7 of testing over at Thermal Metals. We did it in ...
8 a tremendous amount of testing at ... if you see the
9 MPSI ...

10 Q: What I'm talking to you about is you personally doing
11 testing, not ...

12 A: Oh, I always, I always would work on putting it
13 outside, hanging it up in a tree, making sure that it
14 had viability before we would even play with the
15 testing.

16 Q: Okay. So you did testing at the Bendiner Group in
17 Aberdeen, North Carolina?

18 A: Right.

19 Q: You did testing at your home?

20 A: Home, I did testing at other offices. I would make...

21 Q: Well, that's what I want to find out ...

22 A: All right.

23 Q: ... where are these other offices that you did your
24 testing at?

25 A: I tested a little bit over at ... I can't remember.

1 It was on 5-- Highway 5-- something. I just remember
2 something on Highway 5.

3 Q: Highway 5 where?

4 A: That was in ... close to Pinehurst, and I think it was
5 still in Aberdeen or in Jackson maybe, right in that
6 area.

7 Q: Who owned the lab?

8 A: Who owned it?

9 Q: Yes, sir.

10 A: The lab, we didn't really have ... now, the first lab
11 was controlled by the Bendiner Group. That was ...

12 Q: And that was in, that was in a trailer in ...

13 A: That had a real ... yeah. The ...

14 Q: Okay.

15 A: ... next one was ... it was basically over ... it
16 wasn't really a lab. It was ... we had to throw it in
17 an office where I worked out of, and I could formulate
18 and do stuff in this little office, and then I took
19 stuff home, because I could test it out there, because
20 I had better blenders at home than I did at the
21 office.

22 Q: Okay. Where else did you do testing?

23 A: Over at Thermal Metals.

24 Q: And who did you work with at Thermal Metals to do this
25 testing?

1 A: Mark Scott and Jerry Ritter.

2 Q: Okay. When did you do this testing at Thermal Metals?

3 A: Oh, that was periodically from 20-- I can't remember

4 the times, because I remember ... it could be have

5 been ... wait a minute. When was the patent on it?

6 I'm saying 2002.

7 Q: Was this when you were working with the Bendiner Group

8 or with WOW?

9 A: Working with both at the time.

10 Q: Well, did you work with both simultaneously, or did

11 you work ...

12 A: I was, I was working with the Bendiner Group to solve

13 a ... legal problems too and then assisting WOW on

14 some tech-- or assisting the technology part.

15 Q: Well, did you work with the Bendiner Group

16 simultaneously with your working with WOW, or one ...

17 A: No. That was, that was probably at ... well, at the

18 same time ... you can almost say it was, because the

19 Bendiner Group was still active, so you would be

20 working ... I was working with them, but I was working

21 with WOW probably more so until the patent came out,

22 and I think the whole thing when Dr. Beck decided to

23 never do any more work, which was right around the end

24 of June, I believe ...

25 Q: June of what year?

1 A: 2001. I became more working on the patent application
2 and working and trying to get that patent stuff done
3 than doing any real testing. I was just trying to ...
4 Q: So what period did you work simultaneously with WOW
5 and with the Bendiner Group?
6 A: I would say all in ... probably until maybe June or so
7 of ... June, July of 2001.
8 Q: Okay. From what period did you start until what ...
9 when did it end?
10 A: I don't know an exact date when that lawsuit got over.
11 I mean, when we got ... when they finally settled the
12 Bendiner situation with Bentley.
13 Q: Okay. When did you start working simultaneously with
14 the Bendiner Group and WOW?
15 A: I have no clue. I'd say maybe we were working
16 simultaneously while ... it was before the operating
17 agreement, so I know ... I would say maybe in May,
18 when we just started forming the operating agreement
19 with WOW. I think that's maybe when we started
20 settling everything up with Bendiner, so I'd say May.
21 Q: May of 2001?
22 A: That ... I would say that.
23 Q: And when did your simultaneous work stop?
24 A: Probably ... I can't remember when exactly the
25 lawsuit, so I can't recall.

1 Q: Where else did you work on these formulas by way of
2 scientific testing that you did personally?

3 A: Well, "scientific testing" is a good word, but
4 personally, I definitely played with it around the
5 house. I mean, I would formulate at home ...

6 Q: We've already talked about that. We've talked about
7 you working in a trailer that the Bendiner Group had
8 in Aberdeen ...

9 A: Uh-huh.

10 Q: ... North Carolina. We've also talked about you
11 working on it at home. And we've talked about ...

12 A: I don't send it, I don't send it ...

13 Q: Well, let me finish my question. You've also talked
14 about it at Thermal Metals. And what I want to find
15 out is, where else did you do scientific testing?

16 A: I sent it out for testing at a lot of places, but
17 personally hands-on testing?

18 Q: Correct.

19 A: Probably just in those areas. I can't recall. If
20 there is, I just ... I can't remember it.

21 Q: Okay. Do you own any interest in the old patent
22 that's ... and I'm going to refer to it by number,
23 it's 6,833,087, and that is referred to in your
24 pleadings in this matter as the old patent for RP20?

25 A: I would, I would say that's a legal thing, because I

1 don't know if I have ownership. I think that would be
2 a legal ...

3 BY MR. UPTON: Jay, he's transferred his
4 rights into it.

5 A: Yeah.

6 Q: Well, my question is, do you maintain any ownership
7 interest in that old patent whatsoever?

8 BY MR. UPTON: Not that we're aware of
9 legally, no ...

10 A: No, I don't think.

11 Q: You've transferred your ownership interest in that old
12 patent several times, haven't you, to different
13 groups?

14 A: Yes.

15 Q: One was to Ingenuity, L.L.C., one was to Ingenuity and
16 Ideas, L.L.C. Who else have you transferred your
17 patent rights to?

18 A: My patent ... my rights were assigned on 3/15/02 to
19 Robert Bentley, Jr.

20 BY COURT REPORTER: Robert who?

21 A: Bentley ...

22 BY COURT REPORTER: Bentley. Got it ...

23 A: Robert Bentley.

24 Q: So what patents, actually issued patents by the U.S.
25 Patent Office, do you own an interest in?

1 A: Right now, I don't think any ...
2 Q: Okay.
3 A: ... so none.
4 Q: What pending patent applications do you have an
5 interest in?
6 A: None.
7 Q: I'm going to show you a document I'm marking as
8 Exhibit WOW #1 and ask you if you recognize that
9 document, please, sir?
10 A: Yes.
11 Q: What is that document?
12 A: It looks like a note.
13 Q: All right. And does it bear a copy of your signature?
14 A: At the top of all this other writing.
15 Q: Okay. Who was that note delivered to?
16 A: Who was it delivered to?
17 Q: Yes, sir.
18 A: Joe Winkiel.
19 Q: All right. And did you borrow money from Joe Winkiel?
20 A: Yes.
21 Q: How much money have you borrowed from Joe Winkiel?
22 A: Total?
23 Q: Yes, sir.
24 A: I have no clue, but it's close.
25 Q: So whatever Joe Winkiel testified as to what your debt

1 obligation is would be correct?

2 A: I would say it was close to that number there.

3 Q: Have you paid Joe Winkiel any money back on that note?

4 A: No, I haven't.

5 Q: So is the entirety of it still outstanding and owed?

6 A: Yes.

7 Q: Did you also borrow money from WOW?

8 A: I don't know how they put that together, because I've

9 never seen any loan documents or anything from WOW.

10 No. I don't know how ... well, how much or whatever

11 they said I owed money, I have no clue.

12 Q: Did you actually receive money from WOW ...

13 A: As a loan?

14 Q: As a loan.

15 A: I received some money, and I didn't know how Joe put

16 it together, so I don't know whether it was a loan or

17 what, but they're saying it was a loan.

18 Q: Do you know how much money that was?

19 A: Not a clue.

20 Q: Have you paid WOW any money back on that extension of

21 credit?

22 A: I didn't even know I had credit, but I haven't paid

23 any money back, because I haven't had ... no one told

24 me I owed them any money. Until now.

25 Q: Until when?

1 A: Until the lawsuit. The first time I've ever seen
2 this. No one ever tried to collect any of this or any
3 of the monies from WOW until the lawsuit.

4 Q: Okay. This lawsuit has been pending for sometime, is
5 that correct?

6 A: Yes. But I think this came out just after like 2005
7 or something or 20-- whatever, I was notified of that.
8 I wasn't notified any about any monies until the
9 lawsuit.

10 Q: Did you offer to Joe Winkiel any security for the
11 extension of credit that is represented by WOW #1?

12 A: Yes. I ... here ... I put security on here, because
13 I assumed there was going to be one more security on
14 here, and it was my wife, and after I showed her that
15 what we were going to sign, she got a little ... she
16 just decided she wasn't, and Joe was waiting and
17 waiting, and my wife refused to sign it, so this is
18 all Joe got.

19 Q: I'm going to show you a document I have marked as WOW
20 #2.

21 A: Okay.

22 Q: And ask you if you recognize that?

23 A: Oh, with my wife. I don't have a clue. The UCC
24 filing here?

25 Q: Have you ever seen that document before?

1 A: I've seen this, yeah, I've seen this.

2 Q: Is that the suit by your wife against Joe Winkiel?

3 A: I believe so.

4 Q: And he sued ... or he was sued by your wife as a

5 result of his filing a security interest against her

6 house?

7 A: Correct.

8 Q: How would he have come to file a security interest

9 against your wife's house?

10 A: I have no clue, unless we both signed on it. That's

11 why I didn't understand it.

12 Q: If he testifies or would testify at a trial of this

13 matter that you told him that you had an interest in

14 that house, and as a consequence, he filed that

15 security interest against that house, would that be a

16 true statement?

17 A: That ... repeat that one more time.

18 Q: If Joe Winkiel were called to testify in this matter,

19 and he would testify that you indicated that you had

20 an ownership interest in your wife's house, and as a

21 consequence, a security interest was given to him by

22 your own words, and he files a security interest

23 against her house, would that be a true statement?

24 A: Incorrect, because my wife was supposed to sign that

25 note, and the problem was she just didn't do it, and

1 I still feel obligated to pay Joe Winkiel that money.

2 Q: Why didn't your wife sign the note?

3 A: Because she thought I was going to get paid, and

4 everybody told her we were going to get paid for this

5 ... helping, you know, putting this together, and she

6 said, until you get paid, I'm not doing anything, so

7 she sort of just refused to sign it.

8 Q: Well, the monies that Joe extended to you that are

9 represented by WOW #1, those monies were delivered to

10 you by Joe, is that correct?

11 A: These?

12 Q: The monies represented by WOW #1, which is a

13 promissory note.

14 A: They were given to me by Joe.

15 Q: And didn't that help support both you and your wife?

16 A: It helped me out, yes.

17 Q: Okay. I'm going to show you a document I've marked as

18 WOW #3 and ask if you recognize that document?

19 BY MR. UPTON: Hey, can I interrupt you a

20 second?

21 Q: Sure.

22 BY MR. UPTON: Is there an exhibit B to

23 this WOW #3? I mean, not that I want to

24 question you. I just ...

25 A: Yeah. I remember ... I've seen this.

1 Q: Okay.

2 A: Just recently.

3 Q: Just recently ...

4 A: No, no. When the lawsuit, because I didn't have a
5 copy of any of that.

6 BY MR. UPTON: And so are you aware of an
7 exhibit to it?

8 Q: If there is an exhibit ... I mean, I've only been
9 given this ...

10 BY MR. UPTON: Okay. That's fine.

11 Q: I mean, there may be an exhibit, but I don't have
12 it...

13 BY MR. UPTON: Okay, okay. That's ...

14 A: I'm familiar with this.

15 Q: All right. And this document is the operating
16 agreement of WOW, is that correct?

17 A: Yes.

18 Q: And it bears your signature?

19 A: Yes.

20 BY MR. UPTON: Let me see.

21 Q: I'm going to show you a document I've marked for
22 identification as WOW #4 and ask you if you recognize
23 that?

24 A: Yes. That was signed before the operating agreement,
25 correct.

1 Q: All right. And what is WOW #4?

2 A: It looks like a member nondisclosure, but I don't know

3 how I was a member when this is after the fact, but

4 ... I don't ...

5 Q: Is that, is that your confidentiality agreement with

6 WOW?

7 A: It says a member confidentiality disclosure, but I

8 think this was ... hang on just a little bit and let

9 me make sure of the date. This is, I believe when I

10 became a member, and this is like maybe two months

11 earlier, but I signed that.

12 Q: Okay. And it bears your signature?

13 A: Yes.

14 Q: Is that agreement still in effect?

15 A: I have no clue.

16 Q: If ...

17 A: I'm not an attorney.

18 Q: Okay. If ... I'm going to read a portion of it to

19 you. "This agreement shall be effective upon

20 acceptance and agreement by WOW." Did WOW ever accept

21 the agreement to your knowledge?

22 A: Who signed that? I don't know.

23 Q: It's just your signature.

24 A: I have no clue if they accepted it.

25 Q: Okay. And I take it ...

1 A: They're saying they didn't.

2 Q: ... you signed, you signed this before you signed the

3 operating agreement?

4 A: Correct.

5 Q: And in the operating agreement, you get one million

6 membership units in WOW, is that correct?

7 A: We all got one million ... only the four managing

8 members got one million voting power, and then the

9 equivalent of shares they had in the Bendiner Group,

10 we got eight percent, and you had the same amount of

11 percentages of units in WOW.

12 Q: Yeah. I'm just talking about you personally. I'm not

13 concerned about the others. But you personally, what

14 did you receive as a consequence of your execution of

15 the operating agreement in WOW?

16 A: I got the same amount of shares that I ... the same

17 percentage of shares that I had in the Bendiner Group.

18 Q: Would that indicate to you that you were a member and

19 a manager of WOW to your understanding?

20 A: Yes.

21 Q: Okay. Do you believe that WOW accepted this

22 confidentiality agreement?

23 A: I don't know ... I mean, I don't know if they accepted

24 it, or if it had to be voted in, or whatever, but I

25 just know that we did that after the fact, because I

1 think that something we were ... the old agreements
2 were null and void until we get the new operating
3 agreement, and that's when we had all ... I think
4 there's a noncircumvent in there too.

5 Q: Okay. But did anybody ever tell you with WOW that the
6 document I've marked as WOW #4, which is a
7 confidentiality and nondisclosure agreement, was ever
8 abrogated or cancelled?

9 A: I ... not to my knowledge. I don't ...

10 Q: Okay. I'm going to read it further to you. "The
11 effective date of this agreement shall be the date
12 first written above." And the date first written
13 above is March 19th, 2001.

14 A: Right.

15 Q: Okay. Were you working for WOW or working with WOW at
16 that time?

17 A: Or assisting them?

18 Q: Yes.

19 A: I was working with both, the Bendiner Group and with
20 ... assisting WOW at that time.

21 Q: Okay. "The term of this agreement and the obligation
22 of member is for a period of five years from the
23 effective date hereof."

24 A: Okay.

25 Q: Okay. Would that indicate to you that it would go out

1 to March 19th, 2006?

2 A: As long as the company was still in business.

3 Q: Well, according to the terms though, the term of this

4 agreement ...

5 A: As long ...

6 Q: ... specifically stated that it was five years ...

7 A: Yeah. As long as the company was still in business,

8 sure, definitely.

9 Q: Do you know if WOW is out of business at this point?

10 A: I know they were, they were done once.

11 Q: Well, out of business and whether or not you're

12 registered properly with the secretary of state is two

13 different things, isn't it?

14 A: Well, all I can say is I've had ... being a member or

15 a manager or a shareholder of the company, I've had no

16 ... anything from WOW since ... nothing ... no

17 millions, no nothing since 2000, so.

18 Q: Well, have you had any contact with members of WOW to

19 determine what their status is?

20 A: I've talked to some people, yes.

21 Q: Who have you talked to?

22 A: I've talked to some of the members that were involved

23 with WOW, and no one has heard for years any of the

24 status of what's happened to WOW.

25 OFF THE RECORD (T4/S2)

1 Q: Who was the last person you had talked to with WOW?

2 A: I talked to ... who was it? I talked to a guy about

3 six months ago, and I can't re-- and either/or ...

4 just one of the guys that was involved with it. Oh,

5 I can't forget ... I forgot his name. But I asked

6 him, have you heard anything going on with WOW or

7 what's happening, and he said, I haven't heard in

8 years, so I, I ... and I just can't recall his name

9 right offhand, but it's just that no one has heard

10 anything going on.

11 Q: Well, was he a member of WOW to the best of your

12 recollection ...

13 A: Maybe they, maybe they invested some money with Tim or

14 did something, but I can't remember ... recall exactly

15 what it was, but I haven't heard anything from

16 anybody. No one has heard anything.

17 Q: Well, did you know all the people that are signed onto

18 the WOW operating agreement ...

19 A: I don't know them all.

20 Q: Which ones did you not know?

21 A: I don't know who that was, I don't know ... I know who

22 I didn't know, and I mean, there was a lot of people

23 that signed that thing, and there was probably more

24 investors that came in after the fact that ... I mean,

25 I never met. I didn't know the guy from wherever Joe

1 got some money, and Harrison, I know him. I never met
2 Jerry Golden. Jack, I don't think I've met. Leo
3 Cline, I've never met. Some of the people here, I've
4 never met.

5 Q: And I'm going to show you a document I've marked as
6 WOW #5 ...

7 A: Uh-huh.

8 Q: ... and it's a group of documents, and I'm going to
9 offer them in globo at this point and ask if you've
10 ever seen any of those documents?

11 A: Only after they were got from my ... my attorney got
12 all of this. I just ...

13 Q: Which attorney?

14 A: Tim O'Dowd.

15 Q: When did he get that for you?

16 A: Not until 2004, I think.

17 BY COURT REPORTER: Who was your attorney,
18 Tim ...

19 A: Tim O'Dowd. He requested copies.

20 BY COURT REPORTER: Spell the last name?

21 A: O'Dowd ...

22 BY MR. WRIGHT: O'Dowd, O'D-o-w-d ...

23 BY COURT REPORTER: O'Dowd.

24 A: Yeah. But I mean, I didn't know that, you know ...

25 BY MR. UPTON: Okay. Well, let's ... you

1 have various pages here ...

2 A: Right.

3 BY MR. UPTON: ... and I think, I think

4 he's saying the first two pages he's received.

5 Q: Okay.

6 BY MR. UPTON: And then the assignment, he

7 signed, so ...

8 A: Right. I've seen that before.

9 BY MR. UPTON: ... of course, he saw that,

10 and I don't know ... how about the other ones?

11 I don't know ...

12 A: The articles of incorporation. This is Ingenuity and

13 Ideas. I never ... what the heck was that? Oh,

14 Ingenuity ... I had nothing to do with them. I did

15 sign this with Joe Winkiel, that ...

16 BY MR. UPTON: The July 3-- the July 21,

17 `01 ...

18 A: The July 21, `01, I did sign that, so ... because we

19 were going to move forward with the new company and

20 license it. Okay. I signed that. This is Joe, and

21 I've never seen that before until recently. I signed

22 on the back ... I've seen that. I signed that. I

23 didn't know about this one until ... what's his name

24 ... until Tim pulled it up, I had never seen that

25 before.

1 Q: And that's the assignment between WOW ...
2 A: No. This is where ... it's Ingenuity, L.L.C. ...
3 Q: Assigns it to WOW?
4 A: No.
5 BY MR. UPTON: No. To Ingenuity and
6 Ideas...
7 A: To Ingenuity and Ideas. And ... hang on. And then
8 Ingenuity, L.L.C., I didn't know that existed until,
9 until the suit, so ...
10 Q: Okay.
11 A: ... until, until I ... I never had any privied
12 information.
13 Q: How many times have you assigned your rights to the
14 patent that was ultimately issued to WOW, that is
15 RP20?
16 A: I signed it on 6/22 to Ingenuity, L.L.C., which was
17 ... I signed it on 1/11/01 to Ingenuity and Ideas,
18 L.L.C., Dr. Beck and I were signing that, and number
19 three, I signed my rights over to Bob Bentley ... I
20 don't know ... it was like 3/15/02.
21 BY MR. UPTON: Jay, by "signed," he's
22 saying he signed the documents. We're ...
23 A: Yeah.
24 BY MR. UPTON: ... not saying the legal
25 word "assigned" ...

1 A: No. I signed the documents. Just ...
2 BY MR. UPTON: Okay. And we're not ...
3 Q: I'm talking to you about assignment as opposed to
4 signature ...
5 A: Those are, those are the three.
6 Q: Okay.
7 A: (TALKING TO HIS ATTORNEY) ... No. I never ... well,
8 I never ... on which one? What? Yeah. Well, are you
9 saying "assignment" or "legal assignment," or can we
10 define that?
11 BY MR. UPTON: Well, here's what I've got.
12 The ...
13 A: Yeah.
14 BY MR. UPTON: ... documents he signed, I
15 think he can attest to. The legal effects of
16 the documents, he can't ...
17 A: I can't.
18 Q: Okay.
19 BY MR. UPTON: I mean, that's the
20 distinction we're making.
21 Q: All right. Well, let's start talking about specific
22 assignments, and I've marked as WOW #6 a document that
23 purportedly bears your signature dated June 22nd,
24 2001, by yourself and Dr. Beck.
25 A: Okay. I signed that.

1 BY MR. UPTON: Oh, you signed it?

2 A: Right.

3 BY MR. UPTON: Yes.

4 A: Okay. I signed this.

5 BY MR. UPTON: Right.

6 Q: What did you intend to do by signing that document?

7 A: What did I intend to do?

8 Q: Yes, sir.

9 A: Get paid.

10 Q: And does that document reflect the fact that you're

11 going to get paid?

12 A: Well, we were hoping.

13 Q: Well, what does that document say about you getting

14 paid?

15 A: Well, right here, it says that we were going to get

16 one dollar and further consideration.

17 Q: Okay. Did you get the dollar?

18 A: I haven't seen the dollar.

19 Q: Okay. Do you know if Dr. Beck ever said he got the

20 dollar?

21 A: I read that in the lawsuit somewhere that he said he

22 received the dollar, and he was through with it.

23 Q: Okay. What other valuable consideration were you

24 intending to receive as a consequence of your signing

25 WOW #6?

1 A: Well, I ... that Joe knew I owed a lot of money, and
2 he ... they all felt that I was going to get paid one
3 of these days, and Hunter Moore, and at this time
4 turned out not to want to do the deal and refused ...
5 he just didn't do it. He was coming in to do a deal,
6 and Mark really had high hopes on it, and I remember
7 that, and that's ... that ... nothing happened, and
8 then that's when Beck went crazy.

9 BY COURT REPORTER: Who, who did you just
10 say was ...

11 A: Dr. Robert Beck was very upset that ...

12 BY COURT REPORTER: No. I got that part.
13 Hunter Moore ...

14 A: A guy named Hunter Moore ...

15 BY COURT REPORTER: That's all I wanted to
16 make sure.

17 A: ... Mark was, Mark was hoping ...

18 BY COURT REPORTER: Okay. No.

19 A: ... that he would come in.

20 BY COURT REPORTER: I just asked a name.
21 Thank you ...

22 A: Okay.

23 Q: I'm going to show you a document I've marked as WOW #7
24 and ask you if that document bears a copy of your
25 signature?

1 A: Yes, it does.

2 Q: Why did you sign that document?

3 A: Well, in case I ever died or something happened to me,
4 I know one thing, that he would be protected for his,
5 his, his contributing, contributing to me, and it can
6 help him with everything going on, so.

7 Q: When did he start contributing to you?

8 A: A little bit in 20-- about 2000, just helping me get
9 ... keep afloat, and then after everything was going
10 sour over here, he contributed and helped me out to
11 keep going and to help work to develop these
12 processes, and that's the only thing I could think of
13 is ... that I could do to protect him.

14 Q: Looking at WOW #7, it refers to a patent application
15 number 60/243,943. Which patent application is that?

16 A: That is the, that is the provisional patent, that
17 turned into an application, that turned into a patent.

18 Q: Is that the WOW patent or for RP20?

19 A: That was the old patent ... yeah ... well, under old,
20 yeah.

21 Q: Okay. So what you had done is you have assigned to
22 Mr. Bentley, Jr., your interest in the WOW patent
23 dated March 15, 2002?

24 A: Correct.

25 Q: Did you offer that to WOW before you assigned it to

1 Mr. Bentley, Jr.?

2 A: WOW ... I never got any money, and the only way I
3 could protect Bob's loan, or investment, or helping me
4 out, or anything was to protect him, and we wrote up
5 the assignment together.

6 Q: Okay. Did you think about assigning this to WOW as a
7 consequence of WOW having extended credit to you?

8 A: The thing about with WOW with the extended credit, I
9 didn't know how ... what you're saying about extended
10 credit ... we ... there was ... Joe was loaning me
11 money, and really, it wasn't WOW at the time.

12 Q: Well, why didn't you think about assigning it to Joe
13 to protect him?

14 A: Well, Joe never asked, and at the time, he was the
15 only one helping me, and if you see the dates,
16 everybody sort of just like fell apart, and it was the
17 only way to protect ... in case I died, Bob was
18 protected with that, with that assignment.

19 Q: Well, you didn't think about protecting Joe Winkiel?

20 A: Well, I'll protect Joe Winkiel, but I'm just saying,
21 at the present ...

22 Q: How are you going to protect Joe Winkiel?

23 A: Well, I ... Joe Winkiel knew on 7/21 when we all met
24 that I was going to be ...

25 Q: 7/21 of what year?

1 A: Of '01, that we were working together to try to get
2 some compensation for me, because I worked my fanny
3 off, and number two, we agreed in a verbal situation
4 that we were going to take care of Dave, and it just
5 never materialized that any monies came forth, so with
6 Bob contributing ... my health, I fight a terminal
7 disease, and the problem is, if something happens, at
8 least part of my asset can go here, and I know one
9 thing about Bob, Bob is a good person, and I really
10 believe that Bob would, would take care of whatever
11 was out there.

12 Q: Okay. As of February 28, 2002, how much had Bob
13 extended to you by way of credit?

14 A: Oh, I don't have a clue around then. About \$30,000.00
15 or \$40,000.00 maybe. I don't know. Right in there.

16 Q: Well, according to ...

17 A: Or more.

18 Q: ... WOW #1, Joe had already extended to you
19 \$41,000.00?

20 A: That was from 1999.

21 Q: Absolutely correct, but you didn't think about
22 assigning your interest in the WOW patent to Joe at
23 that point, did you, sir?

24 A: Well, at the time, I ... with Joe on the patent, no
25 one confronted me on it, and I knew Bob had money on

1 it, and I knew that I was supposed to be paid by
2 somebody, and I guess they didn't pay, but to protect
3 Bob, I did, I did ... I just signed it over to Bob.

4 Q: And in spite of the fact that you were supposed to
5 give Joe security, in reality, you gave him no
6 security, is that correct?

7 A: Well, I wish my wife would have signed it, but that's
8 true.

9 Q: I'll mark this document as WOW #8. And ask you if
10 this document bears your signature?

11 A: Yes.

12 Q: Why did you sign that document?

13 A: I remember that day. A little call on the phone by
14 Mr. ... I think it was Mitchell Saks, sort of, kind of
15 like giving me a little bit of a threat, that if I
16 didn't sign any of my ... if I get anything or sign
17 anything over or whatever, I want you to ... I put
18 down there my intent, I said, new patent assignment
19 intent, and I have to say one thing, that was under
20 duress.

21 Q: But you signed it?

22 A: Oh, yeah. You don't know Mitchell Saks.

23 Q: And this is after you had already assigned your
24 interest in the same patent to Bob Bentley?

25 A: Robert Bentley, Sr.

1 Q: Well ...

2 A: That's a different ...

3 Q: ... Bentley, Sr., or Jr., it doesn't really matter,

4 does it ...

5 A: Well, on that patent ... on that, if I got anything

6 out of that patent, any dime, any payment of any kind

7 from that patent, I said I would sign my personal ...

8 I believe it says ...

9 BY MR. UPTON: Well, I'll just interject on

10 ... this is WOW #8?

11 A: Yeah.

12 BY MR. UPTON: This isn't really ... it's

13 not an assignment ...

14 A: It's not an assignment. It's only an intent.

15 Q: Right.

16 BY MR. UPTON: Okay. All right ...

17 Q: But you had already assigned your interest in this

18 patent application to Bob Bentley, is that correct ...

19 A: Sr., right.

20 Q: All right. So this ...

21 A: And if I had any interest or any capital gains out of

22 there, that I would give them to WOW, and then all of

23 a sudden, things changed.

24 Q: But this document, WOW #8, was absolutely meaningless,

25 wasn't it?

1 A: I guess the way it was written might have. I don't
2 know who wrote that up.

3 Q: But at the end of the day, you didn't have any
4 interest to assign, because you had already assigned
5 it away to Mr. Bentley, is that correct?

6 A: That's correct.

7 Q: So why did you sign something like this?

8 A: Because I was threatened.

9 Q: Who threatened you?

10 A: I'll tell you right now ... I'm not going to get into
11 it, but it was not a good day.

12 Q: Who threatened you ...

13 A: Well, I'll tell you ... you ask Mark, Mr. Saks said,
14 you better sign that, or all hell is going to break
15 loose, and that was kind of a threat, and you don't
16 know the background of Mitchell Saks.

17 Q: What's his background?

18 A: Well, he used to tell Mark and everybody that he's a
19 bad boy, and he used to be very proud of it.

20 Q: Did he ever do any physical harm to you or your
21 family?

22 A: No. But I'll tell you one thing ...

23 Q: Do you know anyone who he did physical harm to?

24 A: No. But I wasn't going to take a chance.

25 Q: I'll mark this document as WOW #9. And ask if this

1 document bears your signature?

2 A: Yes, it does.

3 Q: Why did you sign that document?

4 A: Look at the date.

5 Q: I ...

6 A: What is ... what the date is, and I think you're kind
7 of going backwards here, but the date says July 21,
8 2001, and the document I signed here was to put any
9 interest, and then I think there's four names on here,
10 Mark Westbrook, Tim Morgan, Robert Bentley and Joe
11 Winkiel, which would turn into a license for awhile,
12 and Joe never put a company together, and nothing
13 happened.

14 Q: Joe didn't put Wonders of Water together?

15 A: Joe put that together prior to this, sir.

16 Q: Why did you sign this, what was your intent in signing
17 this document?

18 A: Well, if you ask the attorney that was there, Mr.
19 Robert Craig, the intention was, what would you do to
20 get the ... what you want, Dave, and at that meeting,
21 it was \$600,000.00 in cash accepted by Joe verbally
22 and \$600,000.00 additional shares, and they said,
23 fine, because if you saw the other pleading with Bud
24 Bendiner, it was ridiculous, so to make a long story
25 short, they agreed to that, and this never

1 materialized, sir.

2 Q: But WOW never received an unconditional assignment of
3 your interest in the WOW patent from you, did they?

4 A: Well, I didn't write all these companies up, sir. I
5 mean, I didn't put Ingenuities and Ingenuities and
6 Ideas and put this ... I think that there was somebody
7 else that executed those companies.

8 Q: But you executed this document ...

9 A: Exactly.

10 Q: ... which is WOW #9, isn't it?

11 A: Well, all I can say is ... okay. It says, interest in
12 a patent and any patent pending, and above ... as the
13 above to trust, that would be under the control of
14 these gentlemen. I think after that, it's under these
15 gentlemen to put the trust together.

16 Q: Okay.

17 A: And they never did.

18 Q: And it says, "Which in turn would issue an exclusive
19 license to Wonders of Water." You were a managing
20 member of Wonders of Water?

21 A: All gentlemen there were.

22 Q: Right. Did you ever get the consent of Wonders of
23 Water to go to work with Mr. Caton?

24 A: Oh, yes.

25 Q: What ...

1 A: Oh, I, I talked ... yes ...

2 Q: ... what document do you have that backs up your

3 assertion that you had the consent of WOW to go to

4 work with Mr. Caton?

5 A: Well, I believe what would verify everything is, WOW

6 was bankrupt at the time that I was working ... no.

7 I didn't go to work for Mr. Caton. I went down

8 there...

9 Q: I, I didn't say that you went to work ...

10 A: You said "go to work."

11 Q: ... for Mr. Caton, I said to go to work with Mr.

12 Caton.

13 A: Well, I was going to work to try to get a job, which

14 never materialized either, and under the contract on

15 2/14/03, which I told Mark that we were not going to

16 go any further until they get a contract, and Mark

17 said wait, and then they ... I guess ... I was ... I

18 just went under surgery, and to make a big, long story

19 short, they had a contract, and I thought everything

20 was hunky-dory.

21 Q: Did you ever get anything in writing that gave you

22 permission to go to work with Mr. Caton from WOW?

23 A: I thought the contract said it all.

24 Q: Did you ever get anything in writing from WOW that

25 gave you permission to go to work with Mr. Caton?

1 A: I never had anything that said I couldn't work with
2 Mr. Caton on this project.

3 Q: I'll show you an additional document I've marked as
4 WOW #10 and ask if that document bears your sig-- a
5 copy of your signature?

6 A: Yes, it does.

7 Q: Why did you sign that document?

8 A: Why, why did we ... why did I sign it?

9 Q: Yes, sir.

10 A: Because we were going to be compensated on that date,
11 Dr. Beck and I, by signing ... by us signing this
12 document, we were both going to be paid and
13 compensated at this time.

14 Q: And doesn't that assignment say, "In consideration of
15 one dollar and other good and valuable consideration?"

16 A: I think the word was "we" here, sir. It says,
17 consideration ... received by ... acknowledged by we.

18 Q: Well, aren't you part of "we?" Aren't you
19 acknowledging that you got a dollar?

20 A: No. We didn't get a dollar. I believe that there
21 should be both signatures, because at the time, it
22 says, the entire rights, and I was waiting for Dr.
23 Beck to sign it, and they were stating to me, and it
24 never happened, and the only time I saw that
25 assignment was, again, during ... I never got a copy,

1 and I never saw it until the lawsuit. The first time
2 I seen it.

3 Q: You admit you owe in excess of \$41,000.00 to Joe
4 Winkiel and have made no payments against that
5 obligation, is that correct?

6 A: Correct.

7 Q: You admit that Mr. Winkiel did not receive any
8 security from you for that obligation, is that
9 correct?

10 A: Correct.

11 Q: You admit that at some point, you received an
12 extension of credit from WOW, although you don't know
13 how much or when you received that extension of
14 credit?

15 A: I never had a loan document or anything saying that I
16 owe them any money.

17 Q: You admit that you went to work with Mr. Caton and do
18 not have any document that would give you the consent
19 in writing from WOW to do so, is that correct, sir?

20 A: "Work" is the wrong word. I went down there to assist
21 with no compensation from nobody, no shares from
22 nobody. I was on my own. I didn't get any
23 compensation, anything, going to Louisiana.

24 Q: When you went to work with Mr. Caton, when you went to
25 work with Mr. Caton, what did you bring to Mr. Caton

1 that would have been of value to Mr. Caton in your
2 employment with or working with Mr. Caton?

3 A: Very simple. I came down there, and I helped him
4 stabilize the product.

5 Q: Which product?

6 A: His product.

7 Q: Did you ever work with Mr. Caton using the formula
8 that has now been patented as RP20 or referred to as
9 RP20 ...

10 A: No. No.

11 Q: You never worked with RP20 with Mr. Caton?

12 A: No, sir.

13 Q: What witnesses do you plan to call at the trial of
14 this matter on your behalf?

15 A: That's up to my legal counsel.

16 Q: What witnesses have you talked to in connection with
17 your defense or prosecution of this matter as a
18 plaintiff in reconvention?

19 A: I haven't talked to anybody.

20 Q: What witnesses do you know of at this point ... your
21 own personal knowledge, that you would recommend to
22 your lawyers to call on your behalf in this matter?

23 A: I think that would be probably a decision that we have
24 to make together. I have no clue the ones I would
25 call. I'd have to ... there's a lot of information

1 here.

2 Q: You haven't discussed the potential of any witnesses

3 either with Mr. O'Dowd or Mr. Upton and his firm?

4 A: I think he was just going to call ... Mr. O'Dowd just

5 stepped ... or Mr. Upton just stepped into this thing.

6 I really ...

7 BY MR. UPTON: I think Tim ... didn't Tim

8 submit a witness list?

9 A: Yeah. I think he might have, but I don't have a clue

10 what ... I can't ...

11 BY MR. WRIGHT: I think he had about 15

12 witnesses listed ...

13 A: Yeah. And I can't remember who all was on that.

14 Q: Did you ever discuss with Mr. ...

15 BY MR. WRIGHT: 'Before we leave here today,

16 I'd like to talk about that.

17 BY MR. UPTON: Well, we're going to hone

18 in. We've got to take it a step at a time.

19 BY MR. WRIGHT: Well, we're either going to

20 hone in, or we're going to start deposing some

21 people. The clock is ticking on us

22 unfortunately.

23 Q: Did you ever discuss with Mr. O'Dowd the potential of

24 calling witnesses on your behalf at the time of

25 trial...

1 BY MR. UPTON: Well, I'm going to object.
2 That's attorney-client privilege there.
3 A: I, I can't ... believe it or not ...
4 BY MR. UPTON: Just don't answer. I mean,
5 any conversations he had with Mr. O'Dowd are
6 attorney-client privilege.
7 Q: To the extent that you filed a witness and exhibit
8 list in this matter, the witnesses on that list would
9 not be confidential in nature.
10 A: I've never seen a witness list. That's true. I ...
11 Q: You've never seen a witness list?
12 A: I never ... I don't think I've seen one. I don't
13 know.
14 Q: Other than these proceedings that have been conducted
15 in Southwest Louisiana, either in state court or
16 federal court ...
17 A: Uh-huh.
18 Q: ... and other than your divorce that you had in
19 Florida ...
20 A: Uh-huh.
21 Q: ... what other litigation have you been involved in?
22 A: Just the one with the ... the one in Florida with the
23 ... when I got arrested for.
24 Q: No. I'm not talking about criminal. I'm talking
25 about only civil litigation. That's what my interest

1 is.

2 A: Man, I don't think any. This is a mess. This is the
3 first time, and I don't think I had ever been in civil
4 litigation. Ever.

5 Q: What document do you have that would support your
6 claim to be an inventor of this RP20 other than the
7 patent application itself?

8 A: I think there's some supporting documents that were
9 submitted in discovery, whatever we went through, and
10 I think that's probably in that big file over there,
11 some of the stuff.

12 Q: So that would be the extent of the documentation that
13 you have that would support that claim?

14 A: Yes. Because ... or from Thermal Metals, which are
15 from whoever, but ... I mean, WOW, I ... they had all
16 my documentation.

17 Q: All right. You don't have any documentation from
18 Thermal Metals, do you?

19 A: I just have some of the stuff, but Thermal Metals
20 worked on ... we worked together on a lot of the stuff
21 over there on the testing, but they would have maybe
22 some of the information you're looking for. I gave
23 mine all into WOW.

24 BY MR. UPTON: I think there is a Thermal
25 Metals report, isn't it ...

1 A: Yeah, yeah.

2 BY MR. UPTON: Yeah.

3 A: Comparing RP20 and some stuff.

4 Q: If we can take a break, and let me consult with ...

5 OFF THE RECORD (T4/S1)

6 BY MR. UPTON: Just with regard to Mr.

7 Delafield's admissions, with respect to the

8 money, the admission that he owes it we feel is

9 a legal conclusion, and he doesn't know whether

10 he owes it or not, but he does admit borrowing

11 the money.

12 BY MR. DELAFIELD: Okay.

13 BY MR. UPTON: Okay. And that's ...

14 BY MR. DELAFIELD: Okay.

15 BY MR. UPTON: And other than that, I think

16 we're done.

17 DEPOSITION CONCLUDED

18

19

20 PAUL DAVID MANOS

21

22 SWORN TO AND SUBSCRIBED BEFORE ME, THIS ____ DAY OF

23 _____, 2007.

24

25

26 NOTARY PUBLIC

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

C E R T I F I C A T E

STATE OF LOUISIANA
PARISH OF RAPIDES:

I, Sheila L. Walker, Certified Court Reporter for the State of Louisiana, do hereby certify that the above and foregoing pages of typewritten matter constitutes a true and correct transcript of the deposition of PAUL DAVID MANOS, March 16, 2007, pursuant to agreement of counsel, at which time the said witness was sworn to tell the truth, the whole truth and nothing but the truth, so help him God, after which he did testify as shown in the foregoing transcript; said deposition being taken upon agreement of counsel to waive all formalities in the taking and return thereof.

I FURTHER CERTIFY that I am not related to any of the parties to this suit, am not of counsel for any of them, and have no financial interest in the outcome hereof.

IN WITNESS WHEREOF, I have hereunto affixed my signature at Alexandria, Louisiana, this 27th day of March, 2007.

SHEILA L. WALKER - #91153